



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

36 WRIT PETITION NO. 1673 OF 2025

Nafees Iliyas Khatri

VERSUS

The State Of Maharashtra Through Collector And Another

...

Mr. Gajanan Sambhajirao Shembole, Advocate for the Petitioner.

Mr. P. P. Dawalkar, AGP for Respondent-State.

Mr. Muhammad Assem Advocate for Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 17th MARCH 2025

PC :-

1. Heard the learned Advocate for the parties.
2. A challenge in this petition is to an order dated 11th December 2024 passed by the learned 5th Joint Civil Judge, Senior Division, Aurangabad allowing the application of Respondent No.2 and impleading her as a party respondent to the Civil Misc. Application No.1055 of 2021.
3. It is the case of the respondent No.2 that she happens to be the second wife of Eliyas Khatri. This application is opposed by the

petitioner stating that Eliyas Khatri had only one wife and she is only legal heir entitled to the share in the properties left by deceased Eliyas Khatri. However, the learned trial Court from the record came to the conclusion that the deceased Iliyas Khatri had performed second marriage with Respondent No.2 at Aurangabad. The Court considered that there is *nikahnama* on record showing that the respondent No.2 married with Eliyas Khatri. Before this Court, from the annexures of the petition it is seen that respondent No.2 is having visa and passport as Rizwana Eliyas Khatri. This Court finds that the trial Court has *prima facie* recorded satisfaction and has passed the order. As it is no substantive order is passed against any of the parties. The Court has only directed to add Respondent No.2 as party to the proceeding.

4. The learned Advocate for the petitioner has sought time to take instructions. Today also when the matter is called out, he submits that parties are likely to enter into compromise and settlement talks are going on.

5. The learned Advocate for the Respondent No.2 disputed this fact. He submits that, there are no any talks going on between the parties. In

fact, they are not in talking terms at all. Though it is the submission of the petitioner that because of *ramjan* month, parties have not arrived at settlement. This Court is not in a position to accept this as Respondent No.2 specifically stated that there is no compromise talks going on between the parties. Considering above, this Court has to proceed with the matter.

6. Looking at the order, this Court finds that no perversity or illegality is pointed out in that case. This Court, therefore, is not inclined to entertain the writ petition. Writ petition, therefore, stands disposed off. No order as to costs.

[KISHORE C. SANT, J.]