



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2930 OF 2024

Surekha w/o Lingeswar Khurpe,
Age: 54 years, Occu: Household,
R/o. Majalgaon, Tq. Majalgaon, Dist. Beed
At present Rangar Galli, in side of old post office,
Gangakhed, Tq. Gangakhed, Dist. Parbhani

.....PETITIONER
(Orig. Opponent)

VERSUS

Lingeswar s/o Sidheshwarappa Khurpe,
Age: 60 years, Occu: Agril,
R/o. Majalgaon, Tq. Majalgaon, Dist. Beed.

.....RESPONDENT
(Orig. applicant)

Mr. M. P. Kale And Mr. S. S. Solanke, Advocate for the
Petitioner

Mr. V. V. Bhavthankar, Advocate for Respondent-Sole

CORAM : ROHIT W. JOSHI, J.

DATED : 10TH JULY, 2025

ORAL JUDGMENT :-

. The present petition takes exception to order dated 11.01.2024, passed by the learned Civil Judge, Senior Division, Majalgaon on application for amendment of plaint filed by the respondent/plaintiff vide Exhibit 42 in Hindu Marriage Petition No.77 of 2016.

2. The respondent/husband has filed petition for divorce against the petitioner/wife on the ground of desertion. Issues in the matter were framed on 10.08.2017 and thereafter, the respondent/plaintiff has filed affidavit of examination-in-chief on 08.01.2018. However, cross-examination of respondent/plaintiff has not commenced. Thereafter, while the case was pending for cross-examination, the respondent/husband filed application dated 11.08.2022 vide Exhibit 42 for amendment of plaint. The respondent/plaintiff has averred that the petitioner/defendant, his wife was involved in various criminal activities, about which he was not aware earlier. He contends that it was necessary for him to bring the aforesaid facts on record for just, proper and complete adjudication of the divorce petition. The said application is allowed by the learned Trial Court vide order dated 11.01.2024.

3. The learned Counsel for the petitioner/defendant contends that the husband did not come forward for facing cross-examination in the matter since the year 2018 and has filed application for amendment on 11.08.2022 after a period of around four and a half years from the date on which he had

filed his affidavit in view of examination-in-chief. He further contends that the amendment is completely irrelevant having regard to the dispute between the parties which pertains to a divorce on ground of willful desertion.

4. Learned Advocate for the respondent/husband justifies the order contending that the reference to criminal proceedings against the wife is necessary in order to demonstrate conduct of the wife. The learned Advocate contends that this may be a reason for the wife not residing with the husband. He states that whereas, the matrimonial home of the defendant/wife is at Majalgaon, District Beed, the wife is presently residing in Tahsil Gangakhed which is situated in Parbhani District.

5. Perusal of impugned order passed by the learned Trial Court demonstrates that the learned Trial Court has observed that if, there is any subsequent development after filing of the suit, and it is relevant for adjudication of the matter, the amendment should be allowed. Whereas, there cannot be any dispute about the said legal position which is rightly summarized by the learned Trial Court. The order passed by

the learned Trial Court does not indicate as to why the proposed amendment was found to be relevant or necessary for adjudication of divorce proceeding.

6. In that view of the matter, the order dated 11.01.2024 is quashed and set aside with directions to the learned Trial Court to decide the application at Exhibit 42, filed under Hindu Marriage Petition No.77 of 2016 afresh.

7. The Writ Petition is **disposed** of accordingly.

8. Civil Application, if any, stands **disposed** of.

(ROHIT W. JOSHI, J.)