

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7865 OF 2025

VAIBHAV
RAMESH
JADHAV

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VAIBHAV RAMESH
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Date: 2025.10.15
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Nausheen Aftab Merchant
@ Nausheen Zafar Ansari

Age – 35 Yrs, Occ. Dentist
R/o. Mayfair Eleganza II, Block – B
Flat No.503, NIBM Road,
Kindhwa, Pune – 411-48
Mob. No. 7020177885

... Petitioner

V/s.

Aftab Aslam Merchant

Age – 37 Yrs, Occ. Chart. Acct.
R/o. Bhose Village, Panchagani,
Tal. Mahabaleshwar, Dist. Satara
Mob. No. :- 8408809501

... Respondent

Mr. Ranjeet H. Patil with Dhavalsinh V. Patil i/by Mr.
Vikas Shivarkar for the petitioner.

Mr. Nirman Sharma (through V.C.) with Mr. Meghdeep
Oak for the respondent.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : OCTOBER 14, 2025

JUDGMENT:

1. Present writ petition takes exception to order dated 11th February 2025 passed by learned Civil Judge, Senior Division, Wai, District Satara, below Exhibit-114 in Special Civil Suit No.326 of 2023.

2. The petitioner is defendant in Special Civil Suit No.326 of 2023. The respondent instituted said suit seeking decree of nullity of marriage, compensation, and damages. On 10th February 2025, recording of evidence of defendant was in progress, and at this stage, impugned order has been passed, thereby forfeiting right of petitioner-defendant to adduce further evidence. The petitioner then moved an application below Exhibit-114 for setting aside order dated 10th February 2025 passed below Exhibit-114. However, said application is also rejected. Hence, this petition.

3. Mr. Ranjeet H. Patil, learned advocate appearing for petitioner submits that matter was posted for petitioner's evidence on 10th February 2025 at about 12:40 p.m. The Trial Court passed an order forfeiting the petitioner's right to lead further evidence. He would urge that petitioner would suffer serious prejudice, if she is not permitted to lead further evidence.

4. Mr. Nirman Sharma, learned advocate appearing for

respondent vehemently opposes petition, contending that petitioner–defendant is protracting proceedings by hook or by crook. Issues were framed in suit on 25th February 2021. The evidence affidavit of respondent–plaintiff was filed on 22nd March 2021. Thereafter, petitioner avoided conducting cross-examination of respondent on three occasions, and “no cross” orders were passed. Subsequently, her right to adduce evidence was forfeited by order dated 11th November 2024. She challenged the said order before this Court in Writ Petition No.11262 of 2024, wherein this Court permitted her to cross-examine the plaintiff and his witnesses, subject to costs of Rs.10,000/-. Thereafter, cross-examination of plaintiff’s witnesses was conducted. Even evidence of defendant was recorded, and again defendant was making an attempt to protract the proceedings. The Trial Court recorded conduct of petitioner and her advocate and ultimately passed impugned order, which need not be interfered with.

5. Having considered submissions advanced by learned advocates appearing for respective parties, it is apparent that petitioner–defendant is not diligent in attending proceedings in the suit. Her reluctance in proceedings has been surfaced time and again and recorded in orders of Trial Court as well as this Court.

6. So far as impugned order is concerned, it can be observed that proceeding was fixed on 10th February 2025 for adducing further evidence of defendant. As per her application at Exhibit-111, humdast was permitted for service of summons to proposed witnesses, but she failed to collect same and serve witnesses summons. Her advocate appeared before Court on 10th February 2025 at about 12:50 p.m. However, Trial Court had already passed order closing evidence. The learned Judge has recorded conduct of petitioner's advocate.

7. It appears that immediately petitioner moved an application below Exhibit-114, to recall order contending that she is not getting sufficient opportunity to produce witnesses. However, said application was rejected.

8. Although the conduct of petitioner cannot be countenanced, fact remains that on 10th February 2025, date was fixed for recording evidence of petitioner's witnesses, and evidence was closed before appearance of her advocate.

9. In this background, petitioner deserves one more opportunity, subject to depositing exemplary costs looking to abnormal conduct of defendant and her advocate during the

proceedings of suit.

10. In result, writ petition is partly allowed in terms of prayer clauses (a) and (b), subject to the condition that petitioner deposits costs of Rs.50,000/- within a period of four weeks from today.

11. Subject to deposit of costs, petitioner shall be entitled to adduce evidence of her witnesses' within a period of four weeks thereafter.

12. It shall be the responsibility of petitioner to produce her witnesses on the date fixed by the Trial Court.

13. The petitioner shall not seek further time for adducing evidence of her witnesses beyond four weeks from the date of deposit of costs and shall proceed to finally argue the matter.

14. The costs so deposited be paid to respondent.

15. The writ petition stands disposed of with aforesaid directions.

16. Pending interlocutory application(s), if any, stand disposed of.

(S. G. CHAPALGAONKAR, J.)