

Vaibhav

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3670 OF 2024

Kalyani Dhairyashil Pawar

...Petitioner

Versus

Dhairyashil Baburao Pawar

...Respondent

Mr. Satyajeet A. Rajeshirke a/w Mr. Gautam R. Kulkarni and Mr. Shubham Vasekar, for the Petitioner.

Mr. S. A. Joshi, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED: 3 FEBRUARY 2025

P.C.:

- 1.** Heard Mr. Rajeshirke, learned Counsel appearing for the Petitioner and Mr. Joshi, learned Counsel appearing for the Respondent.
- 2.** The Challenge in the present Writ Petition filed under Article 227 of the Constitution of India is to the Order dated 9th January 2024 passed by the learned Principal Judge, Family Court, Pune below Exhibit-42 in Petition A. No.721 of 2020. The said Application has been filed praying that the counter-claim of the Respondent - husband be rejected entirely.
- 3.** Mr. Rajeshirke, learned Counsel appearing for the Petitioner submitted that prayer clause (d) in Petition A. No.721 of 2020 has been deleted and a separate Suit has been filed with respect to said prayer being Civil Suit No.55 of 2023. He submitted that the reliefs sought in

the Counter-Claim in Clause Nos.3 to 7 are outside the purview of the Petition which has been filed before the learned Family Court, Pune.

4. In view of the said contention, as arguable questions are raised and Writ Petition requires to be admitted, learned Counsel appearing for the Respondent sought time and therefore, the matter is kept in the afternoon session. In the afternoon session, the learned Counsel appearing for the Petitioner and the Respondent tendered the Consent Terms executed by Advocate of the Petitioner, the Respondent and the Advocate of the Respondent. Mr. Rajeshirke, learned Counsel appearing for the Petitioner, on instructions, states that the Petitioner is not available today for signing the Consent Terms, however, the Petitioner is agreeable for the Consent Terms and Consent Terms signed by the Petitioner will be filed in this Court within one week. He states that the Writ Petition can be disposed of today in terms of the Consent Terms.

5. Accordingly, the Consent Terms are taken on record and marked as “X” for Identification. The Consent Terms reads as under :-

“THE CONSENT TERMS DATED 3/02/2025

1) That the Petitioner is Original Plaintiff wife and filed Petition A No. 721 of 2020 for dissolution of the marriage under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955 before Ld. Family Court Pune. The Petitioner has also filed a separate Civil Suit No. 55 of 2023 for recovery of the possession of her Flat against Respondent husband and his father in the Hon’ble Small Cause Court Pune on the ground of gratuitous licensee.

2) That the Petitioner by this Writ Petition challenged

order dated 09/01/2024 passed by the Hon'ble Family Court, Pune below Exhibit 42 in Petition A No. 721 of 2020 thereby by rejecting the Application of the Petitioner praying that the counterclaim of the Respondent be excluded in its entirety or in the alternative to the extent extent of prayers clause (3) to (7) of paragraph no of Prayers in the Counterclaim filed by Respondent.

3) That when the Petition came up for hearing on 3/02/2024 and after hearing this Hon Court was inclined to Admit the Writ Petition and continued earlier interim relief by staying proceedings in the Counterclaim, both the parties amicably settled the subject matter of the present petition and agreed to substitute the order dated 09/01/2024 passed below Application Exhibit 42 by the Hon'ble Family Court, Pune in Petition A No. 721 of 2020 by the following consent terms

a. That the Application Exhibit 42 filed before Hon'ble Family Court, in Petition A No. 721 of 2020 is allowed to extend that the Prayer clauses no (3) to (7) of the Paragraph 25 of the Written statement-cum-Counterclaim filed by Respondent are excluded.

b. That Respondent is at liberty to raise all concerned pleading and aforesaid reliefs in the prayer clauses no (3) to (7) in the paragraph 25 of the Written statement Cum Counterclaim of Petition A No 721 of 2020 in the Civil Suit No. 55 of 2023 pending before the Hon'ble Small Cause Court Pune against Respondent and his father Shri Babura Appaji Pawar or by filing separate suit.

c. That Counterclaim to extent of remaining prayer clauses no (1), (2) and (8) will be continued in Petition A No. 721 of 2020 pending before Hon Family Court Pune.

d. That as subject matter of the Petition is amicably settled no order as to Cost of this Petition be provided.

4) The Petition stands disposed of in terms of the Consent Terms."

6. Accordingly, the Writ Petition is disposed of in terms of the Consent Terms by setting aside the Order dated 9th January 2024 passed by the learned Principal Judge, Family Court, Pune below Exhibit-42 in Petition A. No.721 of 2020 and the said Exhibit-42 Application filed in Petition A. No.721 of 2020 is partly allowed in terms of the Consent Terms.

7. Accordingly, the Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]