PRAJAKTA SAGAR VARTAK
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Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8192 OF 2024

Mrs. Parnita Vikas Utekar ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

Ms. Pranali Raghunath Rawool i/b. Mr. Sachin Tigde for Petitioner.
Ms. M. S. Bane, AGP for State/Respondent No.1.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATED: 13 JANUARY 2025

P.C.

1. On 07 January 2025, we had issued notice to the respondents returnable for today. We have also permitted learned advocate for the petitioner to effect service on the private respondents and place on record an affidavit of service. Accordingly, affidavit of service dated 13 January 2025 is placed on record by learned advocate for the petitioner setting out all details in regard to the service of the proceedings. As despite service none appears for the private respondents i.e. respondent nos.2 and 3, we have heard Ms. Rawool, learned counsel for the petitioner and Ms. Bane, learned AGP for respondent no.1 in the present proceedings.

2. At the outset, we may note the substantive prayers as made in the petition, which read thus:-

"a) That this Hon'ble Court may be pleased to issue an appropriate Writ of Mandamus or in nature thereof writ or order or relief in nature thereof, thereby to direct the Ld. Family Court No.6 at Bandra thereby to decide the three Applications dated 19.06.2023 at Exhibit-65, Exhibit-66 and Exhibit-67 moved by the Petitioner in Petition A/1001/2015;

b) That this Hon'ble Court may be pleased to issue an appropriate Writ of Certiorari or in nature thereof writ or order or relief in nature thereof thereby impugned order dated 17.08.2022 passed by Ld. Family Court No.6 at Bandra on the Application at Exhibit-56 is quashed and set-aside as the reasons recorded that the Petitioner admitted letter dated 06.03.2025 in written statement at Exhibit-11 dated 20.11.2015;

c) That this Hon'ble Court may be pleased to issue an appropriate Writ of Certiorari or in nature thereof writ or order or relief in nature thereof thereby impugned order dated 11.06.2017 passed by Ld. Family Court No. 6 at Bandra on the Application at Exhibit-16 dated 21.03.2017 is required to be quashed and set-aside and all audio clips and video clips submitted by the Respondent No.2 in Petition A/1001/2015 referred to concern authority for obtaining forensic report within time bound manner as deemed fit by this Hon'ble Court;

d) That this Hon'ble Court may be pleased to issue an appropriate Writ of Certiorari or in nature thereof writ or order or relief in nature thereof thereby court commissioner report dated 15.02.2023 is hereby quashed and set-aside.

e) That this Hon'ble Court may be pleased to issue an appropriate Writ of Mandamus or in nature thereof writ or order or relief in nature thereof thereby to give fair and sufficient opportunity list of documents at Exhibit-64 or as appropriate order may be pleased passed as deemed fit by this Hon'ble Court;

f) That this Hon'ble Court may be pleased to stay on the proceeding till final adjudication of this Petition."

3. We are informed by learned counsel for the petitioner that final hearing of the proceedings of Divorce Petition (Petition No. A/1001/2015) is scheduled on 17 January 2025. Primarily the grievance of the petitioner is that three applications under Exhibit-65, Exhibit-66 and Exhibit-67, although filed by the petitioner quite some time back, are not being taken up

and decided by the Family Court and there is a likelihood that without any decision on such applications, the proceedings may be taken up for final hearing on 17 January 2025. At the outset, we note the prayers in these applications which read thus:-

> " Prayers in Exhibit 65
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> 6) It is therefore prayed that this Hon'ble Court may be pleased to allow the present Application thereby re-examination order may be passed against the Petitioner in the interest of justice and fair play.
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> Prayers in Exhibit 66
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> 4) Therefore, it is prayed that this Hon'ble Court may be pleased to consider the objection raised by the Respondent and appoint another Court Commissioner with following due process of law and fairness in the interest of justice and fair play.
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> Prayers in Exhibit 67
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> 3) Therefore, it is humbly requested to examine the CCTV camera in the presence of Registrar of this Hon'ble Court and furternace, to furnish Pen Drive to the Respondent, which is submitted by the Petitioner to Court Commissioner.
>
> 4) It is prayed that this Application may be allowed in the interest of justice and fair play."

4. If these are the only prayers and the Family Court is expected to hear the parties on these applications, we are of the opinion that no prejudice would be caused, if we dispose of the present petition directing learned Judge of the Family Court to take up the said applications and decide the same.

5. In so far as the relief as prayed for in prayer clause (b) is concerned, we keep open all contentions of the petitioner to be urged before the Family

Court including on the petitioner's contention as set out in paragraph 12 of the written statement that the document at Exhibit-H to the petition although is not signed by the petitioner, has been dictated to her by her elder brother-in-law's wife and that it is not a letter which is voluntarily addressed by her. Thus, the contention of the petitioner that such letter was not intended to be submitted to whom it was addressed (i.e. to the Police Commissioner) and/or that there was no intention of the petitioner to voluntarily address such letter and that too to the Police Commissioner and even that there was no relevance whatsoever in addressing such letter to the Police Commissioner, are all issues which are required to be decided on evidence/merits at the final hearing of the proceedings. The petitioner is accordingly at liberty to urge all such issues before Family Court.

6. In so far as the other prayers are concerned, learned counsel for the petitioner does not press for the said reliefs.

7. In the aforesaid circumstances, we dispose of the petition by directing learned Judge of the Family Court to adjudicate and dispose of the applications of the petitioner namely Exhibit-65, Exhibit-66 and Exhibit-67 as expeditiously as possible and in any event within a period of two weeks from the copy of the order is presented and till such time, final hearing of the proceedings, which is stated to be taken up on 17 January 2025, be suitably deferred. Ordered accordingly.

8. All contentions of the parties in the present proceedings are expressly kept open. Disposed of. No costs.

9. Parties to act on authenticated copy of this order.

(ADVAIT M. SETHNA, J.) (G. S. KULKARNI, J.)