

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9258 OF 2024

Rajkumar Ramgonda Rakamaji	...Petitioner
<i>Versus</i>	
Drakshyani Rajkumar Rakamaji	...Respondent

Ms. Maheshwari Dave and Ms. Gauri Bhagwan Govande, for the
Petitioner.
Ms. Shivani Halwai, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED : 5th FEBRUARY 2025

P. C.:

1. Heard Ms. Maheshwari Dave, learned Counsel appearing for the Petitioner and Ms. Shivani Halwai, learned Counsel appearing for the Respondent.

2. The challenge in this Writ Petition filed under Article 227 of the Constitution of India is to the order dated 24th November 2023 passed by the learned Judge, Family Court, Sangli below Exhibit-69 and 71. The said Applications have been filed seeking amendment in the Petition. The learned Judge, Family Court, Sangli has observed in the impugned order that the said

amendment Application has been filed after 7 years after the filing of the Marriage Petition. The Marriage Petition has been filed in the year 2018 and the Amendment Application has been filed on 4th September 2023. The learned Judge has also observed that issues have been framed, the evidence has been led and in fact, the matter was placed for arguments and at that stage, application for amendment is filed. It has been further observed that in the said Application, no reasons have been given except that inadvertently the pleadings sought to be incorporated by amendment has remained to be incorporated. Accordingly, the said Application has been dismissed by the order dated 24th November 2023.

3. It is the main contention of Ms. Maheshwari Dave, learned Counsel appearing for the Petitioner that earlier Advocate has not filed proper pleadings and therefore, amendment Application is filed. In fact, what is observed by the learned Judge is that the amendment Application has been filed to overcome the evidence which has been led.

4. In any case, it is required to be noted that the Marriage Petition has been filed in or about August-2018. Thereafter, the

issues have been framed on 19th September 2018. The evidence affidavit of Petitioner i.e. P.W. 1 has been filed on 17th December 2018. Thus, trial has commenced on 17th December 2018. Thereafter, cross-examination of the Petitioner i.e. P. W. 1 was completed on 13th March 2019. After taking several dates, on 2nd November 2019, the Petitioner filed pursis that he do not want to lead further evidence. On 4th December 2019, the Respondent filed evidence affidavit. In the meanwhile, the said Hindu Marriage Petition No.378 of 2018 which was filed in the Court of Civil Judge Senior Division, Sangli was transferred to the Family Court, Sangli and is renumbered as P. A. No.27 of 2022. The cross-examination of D.W.1 has been conducted on 5th December 2020, 8th January 2021, 17th March 2021, 14th September 2021 and 5th May 2022 and ultimately the same was completed on 5th May 2022. On 29th July 2022, evidence affidavit of D.W.2-Hirabai Ramgonda Rakamaji i.e. mother of the Petitioner, who is supporting the daughter-in-law, was filed and her cross-examination was also completed on 8th November 2022. Thereafter, evidence affidavit of D.W.3-Gundappa Dalvi i.e. father of the Respondent was filed and as the Petitioner failed to cross-examine the said witness, “no cross” order has been

passed, which is the subject matter of companion Writ Petition No.9259 of 2024.

5. Thus, it is clear that the Petitioner who was earlier working as Teacher and now who is working as Assistant Police Inspector has filed Application stating that due to inadvertence, certain contentions have remained to be incorporated.

6. It is the submission of learned Counsel appearing for the Petitioner that earlier Advocate has not properly drafted the Petition. In this background of the matter, it is relevant to consider the submissions of Ms. Shivani Halwai, learned Counsel appointed to represent the Respondent. It is the submission of Ms. Shivani Halwai, learned Counsel appearing for the Respondent that in fact, certain admissions have been given in the cross-examination of P.W. 1-Rajkumar Ramgonda Rakamaji and therefore, the present Application is filed. Even if the said reason is also assumed to be correct then also, the said cross-examination has been conducted on 13th March 2019 and the present Amendment Application has been filed on 4th September 2023.

7. Thus, this is a case where there is substance in the contention raised by Ms. Shivani Halwai, learned Counsel appearing for the Respondent that the Application has been filed for overcoming the admissions given in the cross-examination. In any case, no reason is set out which will show that due diligence has been shown by the Petitioner.

8. In the facts and circumstances of this case, no case is made out under the jurisdiction of this Court under Article 227 of the Constitution of India to interfere in the impugned order.

9. Accordingly, the Writ Petition No.9258 of 2024 is dismissed, however, with no order as to costs.

10. This Court places on record appreciation of the assistance rendered by Ms. Shivani Halwai, learned Counsel appointed to represent the interest of the Respondent. Her name be added in the Panel maintained by the High Court Legal Services Authority, Mumbai. Her professional fees be paid as per rules.

[MADHAV J. JAMDAR, J.]

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