



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3996/2023

Gaurav Prakash Dhumale .Vs. Sau. Gayatri Gaurav Dhumale

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V. B. Bhise, Advocate for petitioner.
Mr. V. K. Paliwal, Advocate for respondent.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 26, 2025

Heard.

2. Challenge is to the dismissal of petition filed by the petitioner under Section 9 of the Hindu Marriage Act, 1955. The petitioner, however, restricted his prayer to the costs imposed while dismissing the petition. The order to that effect was passed on 05.07.2023, which reads thus:

“1] Mr. Bhise, learned counsel for the petitioner upon instructions states that the relief as claimed in the present petition vis-a-vis the order dated 15.4.2023 (pg.53) is restricted to direction no.3 which imposes cost of Rs. 2,00,000/- only and the petitioner does not press the petition in so far as the other relief which has been granted in the order dated 15.4.2023, considering which issue notice for final disposal, returnable on 24.7.2023.

2] Petitioner shall serve the respondent by all modes permissible in law, including Hamdast.”

3. As could be seen, the petitioner has restricted his challenge to the imposition of costs of RS.2,00,000/- while dismissing the petition.

4. Having heard both sides and having gone through the record, what transpires is that the petitioner and respondent had performed marriage as per Hindu rites and rituals. Since the

marriage was solemnized during Covid-19 pandemic, the invitation cards were not published and no other formalities were done except for clicking photographs of the ceremony.

5. The parties, for some reason, decided to dissolve the marriage and accordingly executed deed of mutual divorce (*Farkaticha Kararnama*) dated 14.10.2021.

6. The respondents, while opposing the petition for restitution of conjugal rights filed by the petitioner, has pleaded that though the alleged marriage was dissolved in October, 2021, the petitioner issued notice dated 28.12.2022, through advocate calling upon respondent to cohabit. According to the respondent, the said notice was issued with an intention to harass her inasmuch as the petitioner was aware that after the dissolution of alleged marriage, the respondent has decided to marry another person.

7. The respondent had filed affidavits of two witnesses in support of her case that the alleged marriage was dissolved on 14.10.2021. Even the petitioner is not disputing the date of dissolution of marriage. According to the petitioner, after dissolution of marriage, both, petitioner and the respondent exchanged talks on mobile and reconciled their relationship and decided to continue marriage. The petitioner, however, has not placed on record any evidence or material in support. What is placed on record is notice dated 28.12.2022. The petitioner in the notice has mentioned that after dissolution of alleged marriage on 14.10.2021, the petitioner and respondent started to speak to each others regularly up to first week of December, 2022. The notice is completely silent as to what had happened after the first week of December, 2022 and why suddenly on 28.12.2022, notice was issued calling upon the respondent to report to the petitioner within seven days for cohabitation, failing which the legal action was proposed.

8. This document, to my mind, is a document created to harass the respondent. It is so because and as noted above, the petitioner has not placed on record any material to show that on dissolution of alleged marriage on 14.10.2021, the parties have spoken to each other or were in contact with each others till the first week of December, 2022. It is not known as to what happened after the first week of December, 2022 and why was notice issued on 28.12.2022. If such a conduct is examined in the light of the pleadings put forth by the respondent, there is every reason to believe that this notice has been issued to harass the respondent. The Trial Court has, after examining the material, took a view that the petition for restitution of marriage was filed to harass the respondent and accordingly imposed costs of Rs.2,00,000/-, while dismissing the same.

9. For the reason stated above, I do not find any error in the aforesaid view taken by the Trial Court. The writ petition is accordingly dismissed. No order as to costs.

(Anil L. Pansare, J.)