



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 2813 of 2025

[Vishal s/o Bhimrao Maulikar ..vs.. Pooja w/o Vishal Maulikar]

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

Court's or Judge's orders

Mr. Suyog Deshpande, Advocate for the petitioner
Mr. S. S. Paliwal, Advocate for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 18-06-2025

Learned counsel for the respondent has tendered across the bar reply. Same is taken on record.

2. Having heard both sides and having gone through the impugned order as also the orders that were passed by Family Court, Nagpur it appears that the petitioner – husband is extremely casual in defending his case. The evidence of respondent – wife is closed. The petitioner has filed affidavit of chief-examination on 3-10-2023 and thereafter did not remain present before the Family Court and accordingly on 13-8-2024, the Family Court passed order to exclude petitioner's evidence and further to close his side of evidence. The petitioner thereafter did not take immediate steps to get the order set aside or by presenting himself for cross-examination. He has, after about 8 months, i.e. in the month of March, 2025, filed yet another application seeking adjournment on the ground that the file was misplaced and the petitioner intends to file application to set aside order dated 13-8-2024. The application was rejected by imposing cost of Rs. 3,000/-. Thereafter on 16-4-2025, the matter was kept for judgment, noting that the petitioner did not pay cost. It is after reaching such a stage, the petitioner filed application for setting aside order dated 13-8-2024 passed below Exhibit 37 excluding and closing

petitioner's evidence. The trial Court noted that the matter is already kept for judgment and since cost is not paid, the application is rejected.

3. The argument is that, if the petitioner is not permitted to lead evidence, his right to defend will be infringed. As against, learned counsel for the respondent submits that the conduct of petitioner is such that the Court was compelled to pass such order.

4. As such, I do not find any perversity in such approach. However, considering the fact that the petitioner will be deprived of his right to defend the proceedings. In the circumstances and in the interest of justice, it will be appropriate to give yet another opportunity to the petitioner subject, however, costs of Rs. 10,000/- to be paid to the respondent. Resultantly, following order is passed.

ORDER

(i) The petition is allowed. The order dated 16-5-2025 passed below Exhibit 45 in A-Petition No. 736/2019 by Family Court No. 4, Nagpur is quashed and set aside, however, subject to costs of Rs. 10,000/- to be paid by the petitioner to the respondent. The costs shall be deposited with the Family Court, Nagpur within seven working days, failing which, the order impugned shall stand revived without further reference to the Court.

(ii) The petitioner shall present himself for cross-examination on the scheduled date i.e. on 7-7-2025. Failure to present himself would revive the order impugned in the present petition.

(iii) The petitioner shall not seek adjournment after 7-7-2025 unless there is/are extraordinary reason/s, to the satisfaction of

the Family Court. If the petitioner adopts delaying tactics, the Family Court is at liberty to pass appropriate order as necessary.

(iv) Writ petition is disposed of in above terms.

(Anil L. Pansare, J.)

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