



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO.3011/2025

Mrs. Smita w/o Suresh Kamdi .Vs. Suresh Deorav Kamdi

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

Court's or Judge's orders

Mr. K. Y. Mandpe, Advocate for petitioner.

CORAM : ANIL L. PANSARE, J.
DATE : JUNE 19, 2025

Heard.

2. Petitioner – wife filed application before the Trial Court for recalling of order of 'No Evidence'. The same has been rejected on two grounds. One is that the petitioner has not filed an affidavit of chief-examination and second is that the application seeking adjournment is also not filed.

3. Counsel for petitioner submits that on filing application for recalling order of no evidence, on 03.03.2025, the matter was referred to mediation. Unfortunately, the matter could not be settled and on 04.04.2025 i.e. the date on which the impugned order is passed, the report of mediation was considered.

4. Counsel for petitioner submits that though the affidavit of evidence was not filed with the application, same was ready and could be filed, however, since the matter was referred to mediation, the evidence was not tendered.

5. As such, there appears some delay on the part of the petitioner however to not permit the petitioner to lead evidence in support of case will, in a way, infringe her right to defend.

6. The question is, whether in such facts and circumstances of the case, one opportunity should be given to the petitioner to lead evidence?

7. Issue notice to the respondent, returnable in three weeks.
8. The petitioner, however, shall deposit Rs.10,000/- before this Court within one week from today, failing which the petition shall stand dismissed for non compliance of the order without further reference to the Court.

(Anil L. Pansare, J.)

Kahale