



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

CIVIL APPLICATION (CAW) NO. 743 OF 2025

IN / AND

WRIT PETITION NO. 2405 OF 2019

ASHWIN S/o SHANKARRAO MAHALLE

VERSUS

RUPALI W/o ASHWIN MAHALLE

Office Notes, Office Memoranda of Coram,
appearances, Court's Orders or directions and
Registrar's order

Court's or Judge's Order

Mr. M. V. Rai, Advocate for the petitioner

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 27, 2025.

1. Heard.
2. On 06.03.2025, the following order was passed in the writ petition :

“The learned Counsel for the petitioner seeks adjournment on the ground that her senior is not available.

2] This petition was listed on 27/3/2019. Thereafter, it is listed today. No efforts were made by the petitioner to get the matter circulated/listed.

3] The petitioner – husband is challenging order dated 17/3/2016 passed below Exh. 23 by the Civil Judge Senior Division, Amravati, in H.M.P. No. 45/2014, thereby granting maintenance pendente lite to the tune of Rs.5,000/- per month under Section 24 of the Hindu Marriage Act, 1955. When enquired as to what is the status of the marriage petition, the learned Counsel submits that she is unaware of the status.

4] Thus, an order granting interim maintenance, which was passed in the year 2016, has been challenged in the year 2019, and thereafter, no efforts were made to get the petition circulated/listed. Ultimately, the Registry has listed it in the year 2025.

5] That being so, let the petitioner deposit entire arrears of maintenance, if not deposited, within ten working days from today, failing which the petition shall stand dismissed for non-compliance of order with additional cost of Rs.25,000/- for abusing process of law.

6] The Civil Judge Senior Division, Amravati, shall file report as to whether the petitioner has deposited the amount of maintenance and the arrears of maintenance, if any, and further the status of H.M.P. No. 45/2014.

7] List on 27/3/2025”

3. It appears that taking clue from the order, which carries tone of warning, the petitioner's counsel has taken instructions from the petitioner and filed the present application (CAW No.743/25) seeking withdrawal of the petition, stating therein that the parties have settled the dispute pending before the trial Court and nothing survives in the petition.

4. It appears that the dispute has been settled in the year 2022. The petitioner has not apprised the said fact to his counsel and in turn to this Court. It is only when the petition was listed on 06.03.2025 and upon passing the aforesaid order, the petitioner now disclosed the true status of the marriage petition, which was pending before the trial Court. This conduct of the petitioner is deprecable because it was his duty to apprise his counsel as regards the subsequent development, which has direct bearing on the present petition. Having not done so and having kept the present petition pending for no valid reasons, the petitioner is liable to pay the costs for such conduct, though the application seeking permission to withdraw the petition requires favourable consideration.

5. Accordingly, the civil application is allowed. The writ petition is disposed of as withdrawn, subject to costs of Rs.5,000/- (Rupees Five thousand only) to be paid within 15 days from today to M/s High Court Gazetted Officers Association, Nagpur. The civil application stands disposed of.

(Anil L. Pansare, J.)

Diwale