



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 WRIT PETITION NO. 14127 OF 2025

Mahendra Bhabuta Patil

VERSUS

Gayatri Mahendra Patil

...

Advocate for Petitioner : Mr. Tungar Hrishikesh V.

CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 12, 2026

PER COURT :-

1. Present writ petition takes exception to the order dated 30.7.2025, passed by the Civil Judge S.D., Shahada below Exhibit-51 in Special Civil Suit No.7 of 2020 and consequential order dated 19.9.2025 passed below Exhibit-1 thereby striking off defence of the present petitioner.

2. Respondent instituted suit for grant of monthly maintenance against petitioner/father. She had filed an application below Exhibit-33 for grant of interim maintenance below Exhibit-5. Trial Court allowed said application on 22.12.2022 and directed petitioner to pay monthly maintenance of Rs.1,000/- to respondent/plaintiff. Petitioner failed to comply aforesaid directions. Therefore, plaintiff filed an application below Exhibit-33 for recovery of amount. While

allowing said application, Trial Court directed petitioner to deposit interim maintenance amount within a period of three months, however, petitioner failed to comply aforesaid order. Lateron, respondent/plaintiff filed an application under order 39 Rule 11 of the Civil Procedure Code to strike off defence of petitioner for defying orders of the Court. Trial Court passed order dated 30.7.2025 directing petitioner to pay outstanding amount of interim maintenance as per order passed below Exhibit-5 dated 22.12.2025 within a period of 15 days and further directed that failure to comply the order would lead to struck-off the defence. Inspite of aforesaid directions, petitioner failed to deposit the amount. Eventually, order dated 19.9.2025 came to be passed below Exhibit-1 directing that defence of defendant is struck-off and evidence affidavit of defendant filed below Exhibit-38 is discarded.

3. Mr. Tungar, learned advocate appearing for petitioner would submit that action of striking-off defence under Order 39 Rule 11 is drastic step and unless sufficient opportunity is given to party against whom such order is sought, Court shall not adopt aforesaid mode. He would further submit that previously, respondent had filed similar application, which was rejected. Therefore, Trial Court could not have resorted to

similar provisions for granting relief in favour of the respondent.

4. Having gone through the record, it can be observed that previously application filed by respondent for striking-off the defence were not taken to logical end. On the other hand, respondent was given liberty to execute the order. Apparently, Trial Court has kept in mind that drastic steps provided under Order 39 Rule 11 need not be taken at initial stage of the proceeding. However, when proceeding in suit reached to the final stage and petitioner/defendant tendered his evidence affidavit, looking to his conduct thereby consistently defying orders passed by Court, impugned order has been passed. It is not the case of petitioner that impugned order is passed without jurisdiction or exceeding the jurisdiction vested with the trial Court. Adequate reasons are given for adopting drastic mode contemplated under Order 39 Rule 11, particularly, looking to conduct of the petitioner, this Court do not find any ground to entertain present writ petition. Writ Petition stands **rejected**.

(S. G. CHAPALGAONKAR, J.)