



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

APPEAL AGAINST ORDER NO.29/2025

Dinesh S/o Laxmanrao Wankhade
...Versus...
Sau. Prachal W/o Dinesh Wankhade

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

Court's or Judge's orders

Mr. K.S. Narwade and Mr. Vishwa Gadbaile, Advocates for appellant

CORAM : ROHIT W. JOSHI, J.
DATE : 27/01/2026

1. The present appellant had filed proceedings for divorce under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955 against the respondent being Hindu Marriage Petition No.354/2019, which was allowed by the learned Civil Judge, Senior Division, Yavatmal vide judgment and decree dated 04/08/2022.

2. The respondent-wife did not file written statement in the said proceedings. She challenged the decree for divorce by filing appeal being Regular Civil Appeal No.59/2022, which came to be partly allowed by the learned Ad hoc District Judge, Yavatmal vide judgment and order dated 26/09/2025. The learned Appellate Court has held that the learned Trial Court has erred in not granting opportunity to the respondent-wife to file written statement on record.

3. It is not in dispute that an order of interim maintenance was passed in favour of respondent/wife in the

divorce proceedings. However, amount of interim maintenance was not deposited by the husband. The learned first Appellate Court by placing reliance on judgment of this Court in the case of *Sau. Vanita Pravin Gaikwad Vs. Shri Pravin Pundlik Gaikwad*, reported in *AIR 2010 BOMBAY 62* and another judgment of the Allahabad High Court in the case of *Dinesh Kumar Vs. Smt. Santosh Dev*, reported in *AIR 2007 ALLAHABAD 30* has held that in case where amount of interim maintenance is not deposited by the husband, order to proceed without written statement should not be passed against wife. On this count, the learned first Appellate Court has remanded the matter to the learned Trial Court to decide the divorce petition afresh after granting opportunity to the respondent-wife to file her written statement. The appellant-husband is also directed to clear the arrears of maintenance in four installments.

4. Learned Advocate for the appellant contends that sufficient opportunities were granted to the respondent/wife to file written statement. He contends that ratio of the said judgments is wrongly applied by the learned Appellate Court to the facts of the present case.

5. Having perused the aforesaid judgments, reference to which is made by the learned first Appellate Court, I find no distinguishing feature in the present case so as to deviate from the said legal position. Indeed an order of interim maintenance was passed in favour of the wife in the present case and the appellant-husband did not pay amount of

interim maintenance to wife. In such circumstances, the wife was certainly facing difficulty and could not contest the proceedings. No substantial question of arises for consideration in the present appeal. Appeal Against Order is, therefore, dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)

Wadkar