

MHJN040027162022



Cri.M.A. No. 461/2022

Dwarka Gore + 1

Vs

Gajanan Gore

Order below Exh-9

1. Present application is filed by father of the non-applicant for discharge of the non-applicant on the ground that non-applicant is having mental disability and not able to pursue criminal proceeding. It is further submitted that the non-applicant is under treatment of Neurosurgeon (Manas Hospital) Jalna. Disability certificate issued by District Hospital Jalna, is also annexed.
2. The applicant filed say at Exh.14 and strongly objected on the ground that non-applicant has filed present application on frivolous grounds and on the basis of concocted documents. She further objected that the non-applicant is remaining present before the Court in R.C.C. No.232/2017 and M.A. No.416/2016. Similarly, the non-applicant has also filed divorce petition before the Hon'ble Civil Judge, Senior Division, Jalna under Section 13(1) of Hindu Marriage Act. Therefore, she prayed for rejection of the application.
3. Heard both sides, perused record. The disability certificate filed on behalf of non-applicant shows that he is diagnosed with schizophrenia having 50 percent temporary disability. However, certified copy of H.M.P. No.89/2021, R.C.A. No.287/2015 shows that the non-applicant has signed pleading as well as Vakilpatra in different proceedings till 2021 which shows that the non-applicant is pursuing legal proceedings in other matters. At this juncture, Ld. Advocate for the non-applicant argued that the non-applicant is unable to defend himself as he is not in the position

to earn a single penny. On the contrary, Ld. Advocate for the applicant argued that the non-applicant can not escape from the liability to pay maintenance as per order dated 28.06.2022.

4. Record shows that the applicant has filed certified copy of various proceedings having signature of the non-applicant. Moreover, present Criminal Miscellaneous application is for recovery of maintenance amount as per order dated 28.06.2022. Said order is not yet challenged and therefore, got finality. In such circumstances, question does not arise to contest the proceeding. The non-applicant is duty bound to pay maintenance to the applicant as his father is having ancestral property. Considering above, it appears that the non-applicant's mental illness (if any) would not hamper applicant's right to recover maintenance amount. Accordingly, I do not find any justified ground to consider the discharge of the non-applicant. Hence, following order is passed.

ORDER

The application stands rejected.

Date: 27/03/2025

Judicial Magistrate First Class,
Court No.1, Ambad