

MHKO110008132022



P.W.D.V.Appln.No.29/2022

(CNR No.MHKO110008132022)

Order below Exh.10

01. The non-applicants made the present application with the prayer to set aside 'No Say' order passed against them below Exh.1 dated 06/03/2023.

02. It is the contention of the applicants i.e. original non-applicants that, non applicant No.1 filed Hindu Marriage Appln. No.175/2019 in Family Court for restitution of conjugal rights. But in spite of it applicant failed to cohabit with non applicant No.1. So he withdrawn the said application on 04/01/2022 and filed Petition A 33/2022 in Family Court for divorce. The said matter was preferred for mediation. So non applicant presumed that, there might be compromise took place between them. So he cannot file their say within time. They further submitted that, they did not made deliberate delay for filing their say. They finally submitted to allow them to file their say to the main application.

03. Original applicant filed her say vide **Exh.11** submitting that, original application was made on 02/05/2022. 'No Say' order was passed against the original non-applicants on 06/03/2023. Near about 10 months period was lapsed. So she submitted to reject the application or allow the application subject to heavy costs.

04. No doubt on perusing the record, it is crystal clear that, 'No Say' order was passed against the non-applicants on 06/03/2023. As well as today the application was fixed for ex-parte hearing. Non-applicants also did not assign any specific reason which preclude them from filing their say within time. But considering the nature of the application and relief claimed in the application, it is necessary to have on record the say of the other party. On the other hand, to decide the present application finally on merit, it is also necessary to give an opportunity to the non-applicants to file their say to present their side. At the same time it is necessary to mention here that, non-applicants have taken much more time to file the present application also. Hence while giving an opportunity to the non-applicants to file their say, the hardship caused to the applicant due to the inactivity on the part of the non-applicants, must be compensated. Hence considering factual situation, I proceed to pass following order -

ORDER

- 1] Application at **Exh.10** is hereby allowed and 'No Say' order passed against non applicant No.1 and 2 below Exh.1 dated 06/03/2023 is hereby set aside subject to costs of Rs.200/- (Rs.Two Hundred) by each non applicant, it be paid to the applicant.
- 2] Payment of the costs shall be condition precedent for filing the say.
- 3] Application at **Exh.10** is hereby disposed off accordingly.

Date : 03/04/2023

(L.M. Pathan)
Judicial Magistrate First Class,
Peth-Vadgaon