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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2704 OF 2015

Ramchandra s/o Kisan Tuplondhe,
Age: 69 years, Occu: Pensioner,
R/o D-43, Ashokvan,
Hanuman Tekdi, Shiv Vallabh Road,
Borivali (East), Mumbai-66

..PETITIONER
(Orig. Petitioner)

VERSUS

Su. Rama W/o Ramchandra Tuplondhe,
Age: 43 years, Occu: Household,
C/o Dattatraya Narsopant Saundadkar,
A/54, Vishnu Nagar, Jayhind Colony,
Devpur, Dhule

..RESPONDENTS
(Orig. Respondent)

Mr K. C. Sant, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 18th November, 2015

ORAL ORDER :

None appears on behalf of the respondent, though duly served.

2. The order dated 13th February, 2015, passed by Civil Judge Senior Division, Dhule, in Hindu Marriage Petition No.115 of 2010, ordering "no cross-examination" by the present petitioner-husband, is subject-matter of challenge in the present petition.

3. Though in the present petition, the other order passed by the said Court on 13th February, 2015, granting permission to re-examine the

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respondent was also questioned, yet this Court has restricted the petition to the extent of the order of “no cross-examination”.

4. It is required to be noted here that the examination-in-chief of the respondent – wife has commenced on 13th February, 2015, however, since the petitioner remained absent on that day, no cross-examination could be recorded.

5. Since the respondent is not present though served. Denial of right of cross-examination, in my opinion, amounts to denial of right of hearing, it will be appropriate in the interest of justice to set aside the order of “no cross-examination”, passed by Civil Judge Senior Division, Dhule, below Exh.45, in Hindu Marriage Petition No.115 of 2010, subject to payment of costs of Rs.2,000/-, to be deposited in the Trial Court. I, therefore, pass following order :-

The order of “no cross-examination”, passed by Civil Judge Senior Division, Dhule, below Exh.45, in Hindu Marriage Petition No.115 of 2010, subject to payment of costs of Rs.2,000/-, to be deposited in the Trial Court, which is permitted to be withdrawn by the respondent.

The above order is passed upon an undertaking that on the next date, the petitioner will not seek any adjournment and will proceed with the cross-examination of the respondent.

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Writ Petition stands allowed in above terms.

(N.W. SAMBRE, J.)

amj