

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5940 OF 2015

Nutan Shankar Moily ... Petitioner
vs.
Shankar Ramanna Moily ... Respondent

Mr. Swapnil Waradkar, for the Petitioner.
Mr. Jaydev Trivedi, for the Respondent.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JULY 09, 2015

P.C.:

. The Petition is directed against the order dated 17th March, 2015 passed by the learned Judge, Family Court No. 3, Bandra, Mumbai in the Petition No. A-1010 of 2012 rejecting the applications (Exhibit 48 and 49). The application(Exhibit 48) was made for directing the income tax officer to furnish income tax returns of Respondent/husband of the year 2001 to 2014 and the application(Exhibit 49) was made that she be recalled as a witness.

2. The learned counsel for the Petitioner/wife has submitted that the orders of rejecting these two applications passed by the

Family Court is illegal. The learned judge did not consider that the income tax returns of the Respondent/husband are necessary to ascertain the income and there is confusion in respect of flat allotted to the Respondent/husband Shankar Moily in Mhada lottery.

3. The learned counsel for the Respondent/husband has supported the order passed by the learned Judge of the Family Court. He submitted that, the Respondent/husband has filed a marriage Petition No. A-1010 of 2012 before the Family Court, Bandra for dissolution of marriage and the Petitioner/wife has filed a counter-claim seeking the restitution of conjugal rights. The marriage Petition for divorce was dismissed in the year September, 2009 and the counter-claim of the Petitioner/wife was allowed. Then again the husband filed the second marriage Petition bearing No. A-1010 of 2012 for dissolution of the marriage on the same grounds. In this case, the trial has already proceeded. The cross examination of the Petitioner/wife is concluded.

4. Perused the order passed by the learned Judge of the Family Court. The order is well reasoned. Considering the relief

claimed, no relief is claimed on the basis of the documents. No maintenance or right of residence is claimed by the Respondent/husband. Moreover, it is rightly observed by the Family Court that in the cross examination, not a single reference in respect of the document was made. It appears that no questions were put to the Respondent/husband about the production of his income tax returns. Further the learned Judge was also correct in taking view that if the application of recalling of wife is allowed then the similar application would be made by the Respondent/husband and the trial will be dragged.

5. In view of the above, I do not find any illegality or perversity in the impugned order.

6. Hence, the Petition stands dismissed.

(MRS.MRIDULA BHATKAR, J.)