

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7291 OF 2014**

Pravin R. Kadam Petitioner
Vs.
Sou. Prerna @ Sarika Pravin Kadam Respondent

Mr. Tushar Sonawane, Advocate for the Petitioner.
Mr. Sagar Joshi, Advocate for the Respondent.

Coram : Smt. R.P. SondurBaldota, J.
Date : 17th March, 2015.

P.C.

1 This petition is directed against the order dtd. 17th May, 2014 passed by the Family Court, Thane on the application at Exhibit 36 dtd. 4th October, 2013 filed by the petitioner-husband for setting aside the order dtd. 28th August, 2013.

2 The application at Exhibit 34 filed by the petitioner was the second application for setting aside “No cross order”. The first “No cross order” was passed on 26th April, 2012. It had been set aside on 6th November, 2012 by imposing costs of Rs.500/- upon the petitioner. But the conduct of the petitioner did not improve thereafter. He again remained absent on three occasions and the second “No cross order” was passed on 28th August, 2013. The petitioner then again filed application for setting aside that order and the Family Court by the order impugned herein dismissed the application on the ground that

the applicant has not given any reason for failure to cross-examine the respondent-wife for more than two years. Mr. Sonawane, the learned advocate for the petitioner states that pursuant to the order dtd. 6th January, 2015, the petitioner has deposited an amount of Rs.10,000/- in this court towards litigation costs of the respondent. By the same order, the respondent has been permitted to withdraw the amount. Mr. Sonawane submits that in view of the deposit, the petitioner may be permitted to cross-examine the respondent so that the interest of justice are met.

3 Although the conduct of the petitioner has been thoroughly negligent, considering nature of the litigation as also it's impact on the life of the parties, I am inclined to grant one more opportunity to the petitioner to participate in the trial by cross-examining the respondent, on condition that he shall deposit costs quantified Rs.10,000/- in this court. In the event, the petitioner fails to deposit the amount, the petition shall stand dismissed. On the petitioner depositing the amount of costs, the petition stands allowed in terms of prayer clause (b). Both the advocates inform that the next date of the matter in the Family Court is 30th March, 2015. The petitioner shall be ready and proceed with the cross-examination of the respondent on that day. In the event the petitioner fails to participate and cross-examine the respondent, the petition shall stand dismissed.

(Smt. R.P. SondurBaldota, J.)