

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6569 OF 2015

Mrs. Meghna Deepak Agarwal ... Petitioner
Vs.
The State of Maharashtra & Anr. ... Respondents

Ms. Sneha Singh a/w. Mr. Sushil Upadhyay and Mr. Anand Mishra i/b. Mr. Ashok M. Saraogi, Advocate for the petitioner.
Mr. A.R. Metkari, AGP for the State/respondent no. 1.
Mr. A.H. Nagi, Advocate for respondent no. 2.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JULY 16, 2015**

P.C.:

This Writ Petition is directed against the order dated 20th May, 2015 passed by the learned Judge of the Family Court, Bandra, Mumbai thereby rejecting the Application of the petitioner/wife seeking permission to produce certified copy of the nullity petition along with notes of arguments.

2. The learned counsel for the petitioner submitted that the learned Judge of the Family Court has committed an error in rejecting the Application of the petitioner seeking permission to produce certified copy of the previous petition for nullity filed by the respondent/husband. She submitted that earlier respondent/husband has filed the petition for nullity. The petitioner was served with the petition and thereafter it was withdrawn

in 2009. Subsequently, the Marriage Petition, which is at present pending before the Family Court, i.e. Petition No. A-134 of 2009 for divorce under the ground of cruelty, was filed by the husband. Evidence in the said petition was over. In the cross-examination of respondent/husband, in paragraph 55 he has admitted that he had filed Petition for nullity of marriage and he would produce copy of the said petition for nullity, which he had produced earlier. However, the respondent/husband did not produce the said copy and therefore, the petitioner/wife had to obtain a certified copy but it took sometime and at the time of filing written arguments, she sought permission to file certified copy of nullity petition which is erroneously rejected by the learned Judge of the Family Court. In support of the her submissions, she relied on the judgment of this Court dated 7th February, 2012 in Writ Petition No. 525 of 2012. She submitted that the said document is necessary to come on record, as the petitioner has taken contradictory stand in the petition of nullity and in the petition for divorce under the ground of cruelty.

3. Perused the order dated 20th May, 2015 passed by the learned Judge of the Family Court. The entire evidence is recorded. The petitioner/wife had knowledge of the contents of petition for nullity of marriage filed by the husband earlier. It is expected to put questions in the cross-examination about the said petition. The petitioner/wife in her

examination-in-chief also could have produced the said document or could have stated about the contents of the said document, as the said document was not produced by the respondent/husband before the Family Court as he had agreed to produce in his cross-examination. Considering this, the fact was within the knowledge of the petitioner/wife and no steps were taken diligently. Written arguments are also submitted by both the parties and the petitioner had filed reply to the written argument filed by the respondent. The learned Judge of the Family Court has rightly rejected the Application. I do not find any merit in the Writ Petition. Hence, the Writ Petition is rejected summarily.

(MRS.MRIDULA BHATKAR, J.)