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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9495 OF 2014

Lina Alex alias Lina Rachel Varughese .. Petitioner

Vs.

Alex Mathew .. Respondent

Mr.Rohan Cama i/b Ms.Sapana Rachure, Advocate for the Petitioner.
Mr.Sasi Nair, Advocate for Respondent.

CORAM : R.G.KETKAR, J.

DATE : 23rd JANUARY, 2015

P.C. :

. Heard Mr.Rohan Cama, learned Counsel for the petitioner and Mr.Sasi Nair, learned Counsel for the respondent at length. Rule. Mr.Nair waives service for the respondent. At the request and by consent of the parties, rule is made returnable forthwith and the petition is taken up for final hearing.

2. By this petition under Articles 226 & 227 of the Constitution of India, the petitioner-wife has challenged the judgment and order dated 13/09/2014 passed by the learned Judge, 4th Family Court, Mumbai below Exhibit 144 in Petition No. A-1612 of 2008 and Petition No. B- 115 of 2008. By that order, the Family Court rejected the application made by the petitioner for production of documents

and additional evidence.

3. In support of this petition, Mr.Cama relied upon the decision of the Apex Court in the case of *Billa Jagan Mohan Reddy Vs. Billa Sanjeeva Reddy (1994) 4 Supreme Court Cases 659* and in particular paragraph 3 thereof. He also relied upon the decision of the Division Bench of this Court in the case of *Iridium India Telecom Ltd. Vs. Motorola Inc. & others, 2004(1) Bom.C.R. 479*. He submitted that the learned trial Judge rejected the application only on the grounds of delay and laches. The learned trial Judge, however, did not consider relevancy of those documents.

4. Mr.Nair states that issues have been framed in Petitions No. A- 1612 of 2008 and B-115 of 2008. Mr.Cama states that issues have been framed in Petition No. B-112 of 2007. Additional issues are required to be framed in Petition No.B-112 of 2007 and issues need to be framed in Petition No. B-115 of 2008. Mr.Nair, upon taking instructions from the respondent who is present in the Court states that respondent-husband has no objection i) for the petitioner producing documents referred in application dated 13/09/2014 ii) for admitting these documents in evidence and marking them as exhibits subject to the proof of these documents iii) for the trial Court considering these documents at the time of deciding the proceedings finally.

5. Mr.Cama, upon taking instructions from the petitioner who is present in the Court states that save and except the documents referred in the application dated 13/09/2014, petitioner does not wish to produce any other document.

6. The statements made by the learned Counsel appearing for the parties are recorded.

7. In view of the consensus of the parties, the impugned order is set aside and stands substituted in following terms.

i) The petitioner is permitted to produce documents referred in application dated 13/09/2014.

ii) The documents shall be admitted in evidence and marked as exhibit subject to proof of its contents.

iii) The trial Court will consider these documents at the time of deciding the proceedings finally.

8. Rule is made absolute in the aforesaid terms with no order as to costs.

(R.G.KETKAR, J.)