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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10717 OF 2014

Omar Haroon Shaikh .. Petitioner
Vs.
Almas Mehmood Whewaria .. Respondent

Ms.Kishwar V.Mirza, Advocate for the Petitioner.
Mr.Shoaib I.Memon, Advocate for Respondent.

CORAM : R.G.KETKAR, J.
DATE : 19th JANUARY, 2015

P.C. :

. Heard Ms.Kishwar V.Mirza, learned Counsel for the petitioner and Mr.Shoaib Memon, learned Counsel for the respondent at length. Rule. Mr. Memon 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 Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 05/11/2014 passed by the learned Judge, Family Court No. 3, Mumbai below Exhibit 56 in Petition No. D - 66 of 2012. By that order, the Family Court rejected the application – Exhibit 56 made by the petitioner for i) permitting him to file further affidavit of evidence along with compilation of the documents and for ii) examining his parents as prosecution witnesses. The petitioner has also challenged the order dated 26/11/2014 passed by the Family Court by which the

Family Court passed the order of 'no cross examination'.

3. After arguing the petition for some time, Ms.Mirza has not pressed her prayer for filing further affidavit of evidence along with compilation of the documents as also prayer for examining parents as prosecution witnesses. She has restricted her challenge only to the extent of order of no cross examination of respondent-wife passed on 26/11/2014.

4. The learned Counsel appearing for the parties state that next date of hearing before the Family Court is 23/01/2015. Mr.Memon states that on 26/11/2014, respondent No.1-wife was under cross examination. He assures that he will keep respondent No.1 present in the Court so as to enable the petitioner-husband to cross examine her. Ms.Mirza assures that on 23/01/2015, she will not seek adjournment and proceed with the cross examination of respondent No.1-wife. The assurances given by the learned Counsel appearing for the parties are recorded.

5. In view of the assurances given by the learned Counsel appearing for the parties, the order of 'no cross examination' passed by the learned Judge of the Family Court is set aside and the petitioner is permitted to cross examine respondent No.1-wife. Rule is made absolute in the aforesaid terms with no order as to costs.

(R.G.KETKAR, J.)