

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 10793 OF 2014**

**Vaishali Sunil Adhav**

**..Petitioner**

**Vs.**

**Sunil Shankar Adhav**

**..Respondent**

**Mr. Tanaji Mhatugade for the Petitioner**

**Mr. Sachin Chavan for the Respondent**

**CORAM : R. M. SAVANT, J.  
DATE : 10<sup>th</sup> JANUARY, 2017**

**P.C.**

1           The above Petition takes exception to the order dated 28-10-2014 passed by the Learned 3rd Joint Civil Judge Senior Division, Kolhapur. By the said order, the application Exhibit 48 filed by the Petitioner herein came to be rejected. However, vide the said order the Petitioner is directed to file her affidavit of examination in chief failing which the Petitioner was put to notice that the matter would be proceeded with from the original stage.

2           The Petitioner and the Respondent are estranged and are involved in prosecuting Hindu Marriage Petition (HMP for short) No.192 of 2009. The said HMP has been filed by the Respondent herein for divorce under the provisions mentioned in the said HMP. It seems that the said HMP was at the stage where the Respondent had completed his evidence, however since the Petitioner had failed to avail of the opportunity to cross-examine the Respondent though granted by the Trial Court, the Trial Court had closed the

cross-examination of the Respondent by the Petitioner.

3           Aggrieved by the said order dated 16-1-2014, the Petitioner has filed application Exhibit 44 for setting aside the no cross order passed against her. The said application was rejected by the Trial Court on 30-8-2014. The Petitioner thereafter filed the instant application Exhibit 48 for review of the said order dated 30-8-2014 which application has been rejected by the impugned order dated 28-10-2014.

4           In my view, having regard to the fact that the parties are involved in proceedings relating to divorce, it would be just and proper to show a final indulgence to the Petitioner. Hence the order passed on Exhibit 48 dated 28-10-2014 is quashed and set aside, the application Exhibit 48 would stand allowed. The order dated 30-8-2014 would accordingly stand set aside. the Petitioner would accordingly be entitled to cross-examine the Respondent. The Petitioner would also be entitled to file her affidavit of evidence in terms of the order dated 28-10-2014 passed by the Trial Court. In so far as the cross-examination of the Respondent is concerned, the parties to appear before the Trial Court on 24-1-2017. The Trial Court may thereafter fix the date for the cross-examination of the Respondent as per its convenience. After the cross-examination, the Respondent would be entitled to lead further evidence by cross-examining another witness / witnesses if he so chooses. However he

should complete his evidence expeditiously. After the evidence of the Respondent is complete, the Petitioner would lead her evidence and would also complete the same expeditiously. The hearing of HMP No.192 of 2009 is expedited.

5           With the aforesaid directions, the Writ Petition is disposed of.

**[R.M.SAVANT, J]**