

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St.NO.8429 OF 2016**

Deepali Santosh Lokhande

..Petitioner

Vs.

Santosh Vasantrao Lokhande

..Respondent

Mr. A. D. Sarwate for the Petitioner

Mr. Ganesh Savani for the Respondent

CORAM : R. M. SAVANT, J.

DATE : 5th APRIL, 2016

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 2-3-2016, passed by the Learned Judge of the Family Court No.5, Pune, by which order the application Exhibit 133 for recalling the P.W.-1 i.e. the Respondent No.1 herein and his mother P.W.-2 for further cross-examination on the point mentioned in paragraph 5 of the application, came to be rejected.

2 It is required to be noted that the Respondent has been cross-examined on 6 dates i.e. 26-8-2013, 18-11-2013, 11-12-2013, 13-3-2014, 7-4-2014 and 24-8-2015. On the said dates, the Petitioner who is the Respondent in the Marriage Petition in question was present. P. W. -2 i.e. the mother of the Respondent herein Nirmala Lokhande has been cross-examined on 12-10-2015 and 28-10-2015. On the said dates, the cross-examination was undertaken when the Petitioner herein was present in Court. The Trial Court adverted to the fact that the examination in chief of P.W.-1 runs into 11 pages whereas the

cross-examination runs into 12 pages and hence did not deem it fit to accept the case of the Petitioner that in the absence of proper instructions to her Advocate the cross-examination was undertaken. The Trial Court having regard to the fact that the Marriage Petitions are about 6 years and 6 months old observed that the attempt seems to be to delay the adjudication of the proceedings. The Trial Court has also observed that in filing the application the objection seems to be to fill up the lacunas in the evidence which has come on record.

3 The Learned Counsel for the Petitioner draws this courts attention to the aspects on which the cross-examination has not been taken by the Petitioner which are culled out and tabulated at item Nos.(a) to (z) in paragraph 5 of the application. Permitting the Petitioner herein to undertake the cross-examination on the said aspects would amount to giving an opportunity to the Petitioner to reopen the evidence which is not permissible having regard to the principles applicable under Order XVIII Rule 17 of the Civil Procedure Code.

4 In that view of the matter, no case for interference in the Writ Jurisdiction of this court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]