

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5237 OF 2016

Jignesh Vinod Parekh

.....Petitioner

V/s.

Hetal Jignesh Parekh

.....Respondent

\* \* \* \* \*

Mr. Jignesh Shah, Advocate for the petitioner.

Mr. Mandar Limaye, Advocate for the respondent.

**CORAM :- SMT. R.P. SONDURBALDOTA, J.**

**DATED :- 12TH JULY, 2016.**

**P.C. :-**

1). This petition challenges the order dated 11<sup>th</sup> April, 2016 by which the Family Court dismissed the petitioner's application at Exhibit-64 for adjournment for further cross-examination of the respondent, wife. The application had been made at the fag end of the cross-examination of the respondent. The Court therefore noted that on the earlier date the advocate for the petitioner had cross-examined the respondent to some extent and the matter was adjourned to 11<sup>th</sup> April, 2016 for further cross-examination. When the cross-examination commenced, there was no indication given by the learned Advocate to either the Court or the other side that there

would be a possibility of adjournment for further cross-examination on the ground that the petitioner did not have the necessary documents for the purpose of concluding the cross-examination. It has noted that the cross-examination of the respondent was infact complete by giving suggestions of the petitioner's case. Thereafter, all of a sudden, the learned Advocate appearing for the Family Court requested for an adjournment by presenting an application therefor. In the application, it was claimed that the petitioner required three to four days time to prepare for further cross-examination. The application stated that, the petitioner could not meet his Advocate for preparing for cross-examination as he was not keeping well. It was also claimed that, the petitioner intended to produce some documents for cross-examination of the respondents which were not available on that date. The Family Court noted that the reason assigned for the adjournment was absurd since despite pendency of the matter for five years and the cross-examination being at the fag end of the trial, instructions were still in the wanting. The Court observed that, it was difficult to believe that the petitioner had not given instructions to the lawyer or had not produced documents necessary for cross-examination.

2). Mr. Kanade, the learned Advocate appearing for the petitioner refers to para-32 of the notes of evidence where the respondent has made a statement that she would produce documents to show that she had left her job from Sharekhan. Prior to that, answer to a bare suggestion had been given to the respondent that she had been working with Sharekhan and that she was continuing to do part-time job with it. The petitioner had not

called upon the respondent to produce any documents. The statement as regards the production of documents had come voluntarily from the respondent. Mr. Limaye, the learned Advocate appearing for the respondent, on instructions of the respondent who is present in the Court today, makes a statement that there are no documents in possession of the respondent to show that she has left the job with Sharekhan. In that circumstance, there is no scope for further cross-examination of the respondent based on the documents referred at para-32 of the notes of evidence. Thus, there is no substance in the petition. The Family Court has correctly observed that the application for adjournment was not a genuine application and that the cross-examination of the respondent was already complete. The petition is therefore dismissed.

**(SMT. R.P. SONDURBALDOTA, J)**