

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.9780 OF 2016
ALONGWITH
CIVIL APPLICATION (STAMP) NO.22414 OF 2016**

Mrs. Savita Rahul Tidke ... Petitioner
Versus
Mr. Rahul Shankar Tidke ... Respondent
.....
Mr. Vijay P. Patil i/b Mr. Sachin R. Geyle for the Petitioner.
Ms. Sangita S. Katkar for the Respondent.

CORAM : R.M. BORDE, J.

DATE : 22 SEPTEMBER, 2016

P.C. :

Heard.

2 Rule.

3 With consent of the parties, Rule is taken up for hearing forthwith.

4 The Petitioner is objecting the interim order passed by the Judge of
the Family Court below Exhibit 14 on 30 July 2016, refusing permission to
the Petitioner to cross examine the Respondent-husband. The Respondent-
husband has presented Hindu Marriage Petition No.A1307 of 2014
claiming a decree of divorce against the Petitioner-wife.

5 This Court while dealing with the challenge to the order passed in
Miscellaneous Civil Application, claiming transfer of Hindu Marriage

Petition from the Family Court at Aurangabad to the Family Court at Mumbai, by virtue of order dated 28 January 2014, permitted the transfer of the matter from Aurangabad to Mumbai. At the same time, this Court directed the Family Court at Bandra to decide the Hindu Marriage Petition as expeditiously as possible. Learned Counsel appearing for the petitioner contends that the matter is being proceeded with undue haste and no adequate opportunity to cross examine the Respondent-husband by the Petitioner-wife has been denied by the Judge of the Family Court at Bandra. The prayer is also made for transfer of the matter from the Family Court at Bandra to any other Court in Mumbai.

6 After hearing the respective parties, I am not inclined to consider the relief in respect of transfer of the matter from Family Court at Bandra and request in that regard statds rejected.

7 So far as the grievance raised by the Petitioner in respect of denial of opportunity to cross examine the Respondent-husband by the Petitioner-wife, I am of the opinion that an opportunity needs to be afforded to the Petitioner-wife to cross examine the Respondent-husband. The impugned order dated 30 July 2016 (Exhibit 'G'), denying an opportunity to cross examine the Respondent-husband, is set aside. Similar orders passed on consideration of the applications tendered by the Petitioner-wife, which are identical in nature, are also set aside.

8 Mrs. Sangita S. Katkar, learned Counsel appearing for the Respondent fairly states that the Respondent-husband will make himself available for cross examination on 5 October 2016. On the aforesaid date,

the Petitioner-wife shall be extended an opportunity to cross examine the said witness. The Respondent also undertakes to keep other witnesses present on the given date either on 5 October 2016 or on the next day. The learned Judge of the Family Court at Bandra, shall permit the Petitioner-wife to cross examine the Respondent-husband and his witnesses and shall ensure the completion of the cross examination on the aforesaid date i.e. 5 October 2016 or next following days until the cross examination of all witnesses is complete. The learned Judge of the Family Court at Bandra, shall also permit the Petitioner to tender her evidence after completion of evidence of the Respondent. The Petition shall be decided as expeditiously as possible, preferably within six months from today.

9 The Rule is made absolute in above terms. No order as to costs.

10 In view of above, Civil Application (Stamp) No.22414 of 2016 does not survive, stands dismissed.

(R.M. BORDE, J.)