

\$~27

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 956/2016

RITA KHANEJA ..... Petitioner

Through Mr. A. Benerjee, Advocate

versus

RAJESH KHANEJA ..... Respondent

Through Mr. S. C. Singhal, Advocate

**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

**ORDER**

% **23.09.2016**

**CM No. 35102/2016 (Exemption)**

Exemption allowed subject to all just exceptions.

Application disposed of.

**CM(M) 956/2016**

Petitioner is aggrieved by two orders dated 07.07.2015 and subsequent order dated 08.08.2016 passed by the Principal Judge, Family Court, (West). Vide the first order the right of the petitioner / estranged wife to cross examine the non-applicant / husband was closed. The Court in the subsequent order (which was on an application under Order 18 Rule 17 CPC) had noted that the petitioner had already been granted two dates to cross examine the non applicant but she had not availed of these dates and as such her right of the cross examine the respondent / husband stood closed.

On the same date i.e. on 07.07.2015 itself since the right of the wife to cross examine her husband (PW1) stood closed, the PE also

stood closed, as the Court noted that no list of witnesses have been filed by the petitioner / estranged wife. Although this petition was filed by the petitioner / wife, the submission of the petitioner / wife of this score is inclined to grant permission to the petitioner to cross examine the husband / respondent. Per contra, counsel for the respondent submits that the respondent should also be permitted to lead his further evidence.

This Court notes the facts of the petition which is pending before the Trial Court. It is a divorce petition filed by the husband seeking divorce from his estranged wife under section 13(1)(ia) and (ib) of Hindu Marriage Act, 1955.

In this background, it would be essential to allow the present petition to enable the true facts to come on record. More over counsel for the respondent submits that the list of witnesses has been filed which is already part of the record. Both the impugned orders are accordingly set aside. Permission is granted to the petitioner / wife to cross examine the respondent / husband. Next date fixed before the Trial Court is 28.09.2016 and 29.09.2016. Petitioner assures that on these dates cross examination of the respondent/ husband would stand completed. No other adjournment shall be given for this purpose. Meanwhile respondent is also permitted to lead his balance evidence.

Petition disposed of.

**INDERMEET KAUR, J**

**SEPTEMBER 23, 2016**

**gb**