

Ms Veena Thadani for Petitioner.
Mr. S. R. Ganbavale for Respondent.

CORAM : R. G. KETKAR, J.
DATE : APRIL 10, 2017

Heard Ms Thadani, learned Counsel for petitioner and Mr. Ganbavale, learned Counsel for respondent at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 27.11.2015 passed by the learned Judge, Family Court at Bandra on an application made by the petitioner under Order XI, Rule 14 of the Code of Civil Procedure, 1908 (for short 'C.P.C.') for production of documents referred in paragraph 7 of the application dated 27.11.2015. Rule. Mr. Ganbavale waives service for respondent. Having regard to the narrow controversy raised between the parties and at the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

3. In support of this Petition, Ms Thadani invited my attention to the application dated 27.11.2015, and in particular paragraph 7 and the prayer clause. She submitted that in paragraph 7, petitioner has sought production of documents by issuing witness summons to the Naval Authorities. She submitted that while rejecting the application, by cryptic order, the learned trial Judge observed that respondent has

denied the existence of illness and custody of the documents. She submitted that the learned trial Judge did not even consider the prayer (a) made by the petitioner. The learned trial Judge also did not consider Section 14 of the Family Courts Act, 1984 (for short 'Act').

4. Mr. Ganbavale submitted that as the learned trial Judge has passed cryptic order that too without considering the prayer clause, the same may be set aside by directing the learned trial Judge to decide the application afresh on its own merits.

5. In view thereof, by consent of the parties, Petition is disposed of in the following terms:

- a. Impugned order is set aside and application dated 27.11.2015 is restored to the file of the learned trial Judge. The learned trial Judge will decide the application afresh on its own merits;
- b. The learned trial Judge will consider prayer clause (a) made in the application as also have due regard to Section 14 of the Act;
- c. Rule is made absolute accordingly with no order as to costs.

(R. G. KETKAR, J.)