

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.9732 OF 2017**

Mrs. Manisha Bhupendra Pandya ...Petitioner

Versus

Mr. Bhupendra P. Pandya ...Respondent

.....

Mr. Rohan Cama with Ms Kalyani Tulankar with Mr. Ajinkya  
Udane i/b. Mr. Himanshu Nagarkar for the Petitioner.

Mr. Amogh Singh i/b. Mr. Jeet Gandhi for the Respondent.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 28<sup>th</sup> SEPTEMBER, 2017.**

**P.C.:-**

The Petitioner has challenged the order dated 17.6.2017, whereby the learned Judge, Family Court No.4, Mumbai has restricted the cross examination of the Respondent to three sessions-each of one hour and further refrained the Petitioner from cross-examining the Respondent on the documents relied upon by the Petitioner.

2. The Family Court had appointed a Court Commissioner to record evidence in the Petition for divorce filed by the Respondent and two other petitions filed by the Petitioner viz. the petition for maintenance and injunction, which were clubbed together. It appears

that though recording of the evidence was to be concluded by February-2015, the time was further extended till March-2017.

3. The records reveal that the Petitioner had relied upon some additional documents and filed an application to extend the time to complete the cross examination of the Respondent. By the impugned order dated 17.6.2017 the learned Judge directed the Petitioner to conclude the cross-examination of the Respondent in three sessions, each session of one hour. The learned Judge further held that there would be no cross-examination of the Petitioner on the document relied upon by the Respondent and that the admissibility and relevancy of the document would be decided at the time of hearing.

4. It is pertinent to note that a Court Commissioner appointed to record the evidence of a witness is required to submit the report within a period of sixty days, unless the Court, for the reasons to be recorded in writing, extends the time. In the instant case it appears that the Court Commissioner has not been able to record the cross examination of the Respondent despite passage of over three years. The delay in recording the evidence, possibly due to prolonged cross-examination has hampered expeditious disposal of the Petitions. In

these circumstances, the learned counsels for the Petitioner and the Respondent have agreed that further cross-examination of PW1 should be recorded by the Judge of the Family Court and not by the Commissioner. They have also agreed that they will cooperate and ensure that cross-examination of the Respondent-husband is not delayed and is concluded expeditiously. The learned counsels for the respective parties have also agreed that the Petitioner-wife should be permitted to cross-examine the Respondent-husband on documents with which he is concerned with subject to the admissibility of the documents.

5. Under the circumstances, the impugned order is set aside. The Petition stands disposed of in the light of the statement made above. The learned Judge, Family Court, Mumbai, is directed to record the cross examination of PW1 and conclude the same by **31.10.2017**. Considering that the suit is of the year 2010, the learned Judge of the Family Court, Mumbai shall endeavour to dispose of the suit as expeditiously as possible. The parties are directed to appear before the learned Judge, Family Court, Mumbai on **9.10.2017**.

**(ANUJA PRABHUDESSAI, J.)**