

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

WRIT PETITION (ST.) NO.30139 OF 2017

Amarjeet Kaur Badhan	..	Petitioner
Vs.		
Jaswinder Singh Ajit Singh Badhan	..	Respondent

Mr.Sanjay Bhojwani for the petitioner.
Mr.Hitesh P. Vyas for the respondent.

CORAM : R.D. DHANUKA, J.
DATE : 15th November 2017

P.C.:

1. By this petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 20th July 2017 passed by the learned Judge of the Family Court below Exhibit-171 rejecting the application of the petitioner for correcting certain portions of the cross-examination of the petitioner and also impugning the order dated 4th August 2017 passed by the learned Judge of the Family Court below Exhibit-183 rejecting the application made by the petitioner for recalling herself for leading further evidence in the matter.

2. Learned counsel for the petitioner invited my attention to two applications made by the petitioner i.e. applications (Exhibits- 171 and 183) and the impugned the order passed by the learned Judge of the Family Court. It is submitted that various errors crept in the cross examination recorded by the learned Judge of the Family Court while recording the cross-examination of the petitioner. On the next date of conclusion of the cross-examination of the petitioner, the petitioner made

an application for correction of those errors crept in the cross-examination. He submits that the impugned order passed by the learned Judge of the Family Court refusing to correct those errors which were apparent and contrary to the record deserves to be set aside.

3. In so far as the application for rejecting the application of the petitioner for leading further evidence and to prove the contents of some of the documents which were simplicitor marked as exhibits and to prove existence and contents of the documents which were not marked by the learned Judge of the Family Court is concerned, it is submitted that though some of those documents were referred and relied upon by the petitioner in the examination-in-chief, the learned Judge simplicitor marked the documents as exhibits. Learned Advocate who was representing the petitioner before the learned Judge of the Family Court at that point of time did not examine the petitioner to prove the contents of the documents which were simplicitor marked as exhibits or to prove the existence and contents of other documents which were not marked as exhibits. The learned Judge however did not give an opportunity to prove those documents. He submits that no prejudice would have been caused to the respondent if an opportunity would have been given by the learned Judge to the petitioner to lead further evidence in the matter.

4. Mr.Vyas, learned counsel appearing for the respondent, on the other hand, submits that the petitioner is an educated lady and was fully aware of her depositions in the cross-examination. He submits that even otherwise the learned Judge has rightly recorded the evidence. The learned Judge while considering the application for correction of portion

of the cross-examination has verified the documents on record and has rightly rejected the said application.

5. Learned counsel for the respondent also invited my attention to the order dated 22nd June 2017 passed by this Court in Civil Appeal (Stamp) No.14009 of 2017 filed by the petitioner herein. By the said order, Division Bench of this Court had directed the learned Judge of the Family Court to decide all pending applications before the main petition for seeking divorce was heard by the learned Judge of the Family Court. He submits that in the proceedings filed by the petitioner, the respondent has been directed to pay interim maintenance of Rs.15,000/- per month to the petitioner. The petitioner is thus delaying the outcome of the proceedings filed before the learned Judge of the Family Court.

6. In so far as the application for correction of portion of the cross-examination of the petitioner is concerned, a perusal of the order passed by the learned Judge below Exhibit-171 clearly indicates that the learned Judge of the Family Court while rejecting the said application has verified her evidence with the police complaint and other documents and has rendered a finding that there is no mistake or error crept in the order. Learned Judge also made an observation that the petitioner is extremely vigilant and checks and corrects each and every word of her cross-examination before signing her deposition. It is not in dispute that the petitioner had verified the notes of evidence before affixing her signature thereon. I do not find any infirmity in the order dated 20th July 2017 passed by the learned Judge of the Family Court rejecting the application for correcting certain portions of the cross-examination of the petitioner.

7. In so far as the application of the petitioner for seeking permission to lead further evidence is concerned, it is the case of the petitioner that though some of the documents were referred to and relied upon in the affidavit in lieu of examination-in-chief, the learned Judge of the Family Court has simplicitor marked those documents as exhibits. He submits that the earlier advocate representing the petitioner did not advise the petitioner to lead further evidence to prove the contents of the documents.

8. A perusal of the order dated 4th August 2017 passed by the learned Judge of the Family Court clearly indicates that after referring the provisions of Section 14 of the Family Courts Act and other provisions of the Indian Evidence Act, 1872, the learned Judge has opined that there are certain documents filed below Exhibits-162 and 171 of which the petitioner was not an author. Learned Judge though rejected the application of the petitioner, has exhibited various documents. Cross-examination of the petitioner has been closed as far back as in the month of December 2016. The proceedings are of the year 2011. I do not find any infirmity in the order dated 4th August 2017 passed by the learned Judge of the Family Court. It was for the petitioner to lead appropriate evidence at the appropriate time and cannot seek recall herself for leading further evidence by blaming the earlier advocate who appeared for her.

9. The petition is devoid of merit and is accordingly dismissed. No order as to costs. The learned Judge of the Family Court No.3, Pune is directed to dispose of P.A.No.385 of 2011 expeditiously and not later than six months from today.

10. Parties are directed not to seek any unnecessary adjournment and shall co-operate with the learned Judge of the Family Court to dispose of the matter expeditiously as directed by this Court. If any of the parties seeks unnecessary adjournment in the matter, the matter will be proceeded with ex parte against that party.

R.D. DHANUKA, J.