

Santosh

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

WRIT PETITION NO. 1877 OF 2018

Mrs. Ruch Pankaj Mehta-Mistry ... Petitioner

versus

Pankaj Hasu Mistry & Anr ... Respondents

Mrs. Bhavana H. Mhatre, for the Petitioner.

Mrs. Sushma Singh, for Respondent No.1.

Mr. G. r. Golatkar, AGP for the Respondent no.2/State.

CORAM : SMT. BHARATI H. DANGRE, J

DATE : 7th MARCH, 2018.

P.C. :-

1. The present petition is filed by the wife and she assails the order passed by the Family Court, Thane, on 25th July, 2017. An application was moved by the wife seeking time to file documents which she is awaiting to be received from the Judicial Magistrate, First Class and though the application has been preferred long back, the said documents have not been returned to her.

2. The documents which the Applicant intends to bring on record relate to the earning capacity of the husband as well as certain original bills and receipts pertaining to household expenditure, electricity bills, medical bills etc. It can be seen that these documents are germane for the decision of the issue pending before the Court below and not bringing them on record would result into denial of an opportunity to the wife and would prejudice her.

Further, since the application which has been preferred by the wife before the learned Magistrate is pending since long and the said documents have been tendered in the Court of Judicial Magistrate, First Class, Thane, in the year 2012. Without waiting for the said documents to be returned from the Magistrate and in the contingency where the Petitioner would be able to procure these documents from some other sources, within a period of one week, the Petitioner may be permitted to produce these documents, which are in her custody or which she would be able to obtain from the Magistrate Court within stipulated period. The Family Court, Thane, is directed to permit the Petitioner to produce the said documents within a period of one week from the date of the

receipt of the order, on a condition of the Petitioner depositing costs of Rs.2,000/- with the Legal Aid Services.

Resultantly, the impugned order passed by the Family Court is set aside. The Petitioner is permitted to tender the documents and the Judge, Family Court, Thane, is directed to accept the said documents if tendered within a period of one week from the receipt of the order. Once such documents are tendered, the Family Court should permit the Petitioner to cross-examine and the proceedings would be carried forward. The receipt of payment of costs to be tendered before the Family Court on the next date of hearing.

3. With these directions, the Writ Petition is disposed of.

[SMT. BHARATI H. DANGRE, J.]