

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 3341 OF 2015

Pinky Neeraj Kalro

...Petitioner

Versus

Neeraj Lalchand Kalro

...Respondent

**With
Civil Application No.866 of 2015
In
Writ Petition NO. 3341 OF 2015**

....

Mr. Rohaan Cama i/b. Vivek B. Pandey, Advocate for the Petitioner.

Mr. Siddhesh Pilankar, i/b. Uday P. Warunjikar, Advocate for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 01st MARCH, 2018

PC.

1. Heard Mr.Rohaam Cama, learned counsel for the petitioner and Mr.Siddhesh Pilankar, learned counsel for the respondent, at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 24.2.2015 passed by the learned Principal Judge, Family Court, Mumbai below Exhibit-45 in Petition No.A-1508/2010. By that order, the learned trial Judge rejected the application made by the petitioner for discarding the affidavit of evidence of examination-in-chief of the respondent herein. In the alternate, she has prayed for order of striking out the paragraphs

of the affidavit of evidence of the respondent.

3. After arguing the petition for quite some time and upon taking instructions from the petitioner, who is present in Court, Mr. Cama submits that he will not press this Petition if it is clarified that at the stage of final hearing of the petition all objections of the petitioner as regards (1) evidence beyond pleadings and denials of the pleadings, as also (2) affidavit of evidence should not contain the legal submissions, may be kept open. He further states that the petitioner, if so advised, will cross-examine the respondent and the cross-examination of the petitioner should not be considered as waiver of the objections.

4. In view thereof, the Petition is disposed of as not pressed keeping objections of the petitioner, referred hereinabove, open. It is also clarified that in case the petitioner chooses to cross-examine the respondent, the same shall not be construed as her waiver to the objections so raised. In view of disposal of petition, Civil Application No.866 of 2015 does not survive and same stands disposed of. Order accordingly.

(R. G. KETKAR, J.)