

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

WRIT PETITION NO.10143 OF 2017

Mrs.Archita Nandy

... Petitioner
(Org.Defendant No.1)

Versus

1. Samrat Nandy

... Org. Plaintiff

2. The State Bank of India

...

3. The Horizon Co-operative Housing Society... Respondents

....

Mr.Dalshesh Vyas a/w Mr.Durgesh Kulkarni a/w Mr.Hitesh Shah
for Lex Firmus for the Petitioner.

Mr.Kunal Bhange for Respondent No.1.

....

CORAM : Ravindra V. Ghuge, J.

DATE : 16 March 2018

P.C. :

1. Rule. Rule made returnable forthwith. With the consent of the parties, taken up for final hearing.

2. This matter was heard on 15 March 2018 and again today.

3. The Petitioner is aggrieved by the order dated 8 August 2017 by which the application – Exhibit 17 filed for seeking an adjournment to cross-examine the Plaintiff was rejected as the witness comes from Singapore.

4. It cannot be disputed that depriving a litigant of the right to cross-examine would seriously affect the merits of this case. At the same time, the cross-examination cannot be deferred inordinately so as to cause frustration to the party which is leading evidence through the witness and especially in view of the fact

that the said witness is said to have travelled from Singapore to India for the said litigation, notwithstanding the fact that he is an Indian national.

5. It is informed that the Plaintiff would be in India on 26 April 2018. Learned counsel for the Petitioner submits that he would not seek any adjournment on the date which this Court would post the matter for recording of cross-examination. He would endeavor to complete the cross-examination in the course of the day.

6. Keeping in view that the Civil Suit is of the year 2012 and cannot be said to be too old so as to deprive the Defendant of the right to cross-examination, this petition is allowed. The impugned order dated 8 August 2017 is quashed and set aside.

7. The Respondent would appear before the Trial Court on 2 May 2018 at 11.00 a.m. and shall not seek an adjournment. The Defendant shall cross-examine the Plaintiff on 2 May 2018 and would conclude the cross-examination in the course of the day.

8. Rule is made absolute in the above terms.

(Ravindra V. Ghuge, J.)