

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

**WRIT PETITION NO. 13086 OF 2017**

Mrs. Samita Alias Shamita Vikrant Deshpande ...Petitioner  
*Versus*  
Mr. Vikrant Chandrakant Deshpande And Anr ...Respondents

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Mr. Shyam B Rajbhar for the Petitioner.

Mr. Kashyap Bhalerao for Respondent No.1.

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**CORAM : SMT. BHARATI H. DANGRE, J.**

**DATE : 02<sup>nd</sup> APRIL 2018**

**P.C.**

1. The present petition is filed by the petitioner praying for quashing and setting aside the impugned order dated 16<sup>th</sup> August 2017 passed by the Family Court No.6, Mumbai, thereby refusing to set aside the order of "no cross-examination" passed by the Court on 10<sup>th</sup> March 2017. In the application before the Family Court, the 'no cross-examination' order was set aside on 17<sup>th</sup> March 2017, subject to payment of cost of Rs.3,000/- to be payable to the other side and it was made clear that on failure to comply with the order, the original order would stand restored. It is the case of the petitioner that she could not arrange for the said amount within the stipulated period resulting into a default in payment,

however, no leniency was shown by the Family Court and the impugned order came to be passed.

2. The learned counsel for the respondent invited my attention of the chronology of events and vehemently argued that the petition for divorce is filed by the husband, where the petitioner-wife is adopting delaying tactics and in spite of sufficient opportunity and leniency granted, she had taken the Court for a ride and has not complied and abided by the directions issued from time to time. He also invited attention of this Court to the order passed by this Court on 20<sup>th</sup> September 2017 directing the Family Court, Mumbai, to decide the proceedings by 31<sup>st</sup> December 2017. The learned counsel for the petitioner however informed that the time has been further extended, and now the deadline has been rescheduled as 31<sup>st</sup> May 2018.

3. *Prima facie* it appears that there is some lethargy on the part of the petitioner and she was not diligent in prosecuting the matter. However this cannot be a ground for not granting reasonable opportunity to her for defending the matter. However it should be made clear to the petitioner since the petitioner failed to comply with this order of the Court, she was denied her right to

cross-examine. However in order to see that the petitioner do not lose her right, one more opportunity is given to the petitioner and the impugned order is quashed and set aside. This is however subject to payment of Rs.5,000/- to be paid by the petitioner to the respondent within a period of one week from today.

4. It is made clear that the lifeline for completion of the proceedings i.e. 31<sup>st</sup> May 2018 is not to be extended and the Family Court would make an endeavor to complete the proceedings before the deadline by adjusting the stage of permitting the petitioner to cross-examine and then proceed with the matter further. It is however made clear to the petitioner that if the said amount is not deposited within one week, no further application of any nature, whatsoever would be entertained by this Court or Family Court in future and such default of the petitioner would be viewed seriously and which will not be condoned in any contingency.

5. Another grievance raised by the petitioner in respect of the non-supply of documents in relation to which the Family Court has passed an order on 16<sup>th</sup> August 2017, the Court had categorically observed in paragraph No.2 of the order that the petitioner is ready to provide the certified copy to the respondent-

wife, who has refused to the same. If these are the observations made by the Family Court, the petitioner should accept the documents forthwith and non supply of the document should not be taken as a ground to seek an adjournment.

6. With these aforesaid directions, the Writ Petition is disposed of.

**(SMT.BHARATI H. DANGRE, J.)**