

Mr. Amrut M. Vernekar for Petitioner.

P.C. :

2. This Petition takes exception to the order dated 09.08.2018 passed by the learned Principal Judge, Family Court, Mumbai below exhibit-20 in Petition No.C-41 of 2016. By that order, the learned trial Judge rejected the application filed by the petitioner for discarding the documents filed by the respondent on the ground that they are irrelevant.

1/3

were already exhibited by the Court. He further submitted that the learned trial Judge committed serious error in not discarding the documents at Sr. Nos.9 to 12, 15, 16 and 27 to 31 of the list of documents in Maintenance Petition No.C-41 of 2016 in as much as these documents are in respect of the issue of cruelty. The said documents pertained to the period after the petitioner was deserted by the respondent on 09.06.2012. In any case, these documents were in possession of the respondent. Respondent, however, did not produce or rely upon these documents. He submitted that the learned trial Judge ought to have discarded these documents as being not relevant and germane for deciding the issue of maintenance and rent towards residential accommodation. He, therefore, submitted that the Petition requires consideration.

4. I have considered the submissions advanced by Mr. Vernekar. I have also perused the material on record. In paragraph 7 of the impugned order, the learned trial Judge has observed that petitioner wife has filed proceedings for maintenance and rent towards residential accommodation. In that Petition, she has made various allegations against the respondent husband. Issue is framed as to whether the petitioner proves that the respondent has treated her with cruelty to cause a reasonable apprehension in her mind that it will be harmful or injurious to live with him. Another issue was also framed as to whether the petitioner proves that the respondent has deserted and / or abandoned her without reasonable cause. In paragraph 8, the learned trial Judge observed that the documents produced on record indicate that they are relevant for deciding the issues between the parties. The respondent is at liberty to disprove the case of the petitioner. Even though the petition is filed for maintenance and rent, there are allegations of cruelty and desertion in the petition. The learned trial Judge accordingly overruled

the contention raised by the petitioner that the documents produced by the respondent are not relevant.

5. Event otherwise, Section 14 of the Family Courts Act, 1984 lays down that a Family Court may receive as evidence any report, statement, documents, information or matter that may in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872. In view thereof and for the reasons recorded in paragraphs 7 and 8 of the impugned order, I do not find that the learned trial Judge has committed any error in rejecting the application. Hence, Petition fails and the same is dismissed. It is, however, expressly made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.

(R. G. KETKAR, J.)

Minal Parab