

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

WRIT PETITION NO.1460 OF 2020

Uday Padmakar Sirsat

..Petitioner

Vs.

Rupali Uday Sirsat @

Rupali Jayprakash Targe

..Respondent

.....

Mr. Rajesh Talekar a/w. Sabah Khan i/b. Aditya Salve, Advocate for Petitioner.

Ms. Gauri Joglekar i/b. Gauri Govande, Advocate for Respondent

CORAM : C.V. BHADANG, J.

DATE : 12th FEBRUARY, 2020

PC.

. The challenge in this petition is to the order discarding the affidavit in evidence filed by the petitioner (who is respondent in Petition No.A/2223/2012 before the Family Court at Mumbai) on the ground that the petitioner had failed to remain present for being cross examined, on behalf of the respondent herein.

2. During the course of arguments, at bar, it transpired that this is the third time that such an order is passed against the petitioner. On one of the previous occasions, the order was recalled subject to petitioner paying costs of Rs.5,000/-. Although the petitioner paid the cost, again failed to remain present for being subjected to cross examination. According to the petitioner, this was on account of the fact that he was in custody in a criminal case and he was therefore prevented from remaining present before the Family Court.

3. Learned counsel for the petitioner, on instructions, states that the petitioner would positively remain present for cross examination before the Family Court and shall co-operate for the time bound disposal of the matter as the petition for dissolution of marriage filed by the wife is of the year 2012. It may be mentioned that there is also a petition filed by the petitioner in the year 2016, for restitution of the conjugal rights, which has been clubbed with the petition filed by the respondent/ wife.

3. Be that as it may, learned counsel for the respondent, on instructions, states that subject to the petitioner paying substantial costs and agreeing for a time bound disposal of the petition before the Family Court, this Court may allow the petitioner to be cross examined by the respondent.

4. Learned counsel for the parties submit that in such circumstances, this Court may not record detailed reasons.

5. In the result, the petition is disposed of by consent of parties, in the following terms.

ORDER

1) The impugned orders are hereby set aside subject to the petitioner depositing costs of Rs.20,000/- before the Family Court, payable to the respondent, within two weeks from today.

2) Deposit of the costs is a condition precedent for setting aside of the order.

3) The petitioner shall remain present before the Family Court positively on the next date, as may be

fixed by the Family Court for being cross examined on behalf of the respondent herein.

4) Both the petitions pending before the Family Court at Bandra, Mumbai are hereby expedited.

5) The Family Court shall decide the petitions as expeditiously as possible and preferably within a period of six months from the receipt hereof.

6) Parties to co-operate for the time bound disposal of the petition.

C.V. BHADANG, J.