

Wakodikar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4546 OF 2019

Onkar Ankush Chavan

..Petitioner.

V/s.

Chaya Balasaheb Shinde @

Chaya Onkar Chavan

..Respondent.

.....

Mr. Priyal G. Sarda for the Petitioner.

Mr. Sachin H. Deokar for the Respondent.

.....

CORAM: NITIN W. SAMBRE, J.

DATE : 20th JANUARY, 2020

PC.:-

Heard.

2. The impugned order is dated 11th January, 2019, whereby an application – Exh.60 moved by the petitioner/husband praying therein permission to produce some documents and evidence on record which came to be rejected.

3. The submissions of Shri. Sarda while questioning the order impugned are, in view of provisions of sub-clause 3 of Rule 14 of Order 7 of the Code of Civil Procedure, 1908 read with provisions of Section

10 of the Family Courts Act, 1984, the Family Court being a Civil Court, the order impugned is not sustainable. According to him, the provisions of Order 7 Rule 14 contemplates the production of documents at an appropriate stage of proceedings and as the proceedings are at the stage of cross-examination of PW-4, no prejudice will be caused to the respondent/wife as the said document is subject to evidential scrutiny.

4. Learned Counsel for respondent opposed the claim and submits that since the document is not proved in examination-in-chief, the order of the Family Court does not warrant any interference.

5. Considered submissions.

6. This Court cannot be oblivious the provisions of Sections 14 and 15 of the Family Courts Act, 1984. Section 15 gives liberty to a Judge of the Family Court to record the evidence of a witness which can be memorandum of the substance of what the witness deposed. Such memorandum is required to be signed by witness and the Court.

7. In the case in hand, the memorandum of PW-4, which is recorded, nowhere speaks of the alleged conversation which the petitioner intends to produce on record in the form of evidence and that

being so, the document once not proved for, cannot be subjected to cross-examination in the evidence of PW-4.

8. Provisions of Order 7 Rule 14(3) of the Code of Civil Procedure, if read in the backdrop of the provisions of Section 10 of the Family Courts Act, even if it is considered that the Family Court is a Civil Court within the meaning of sub-section (1) of Section 10, still the power thereunder are discretionary in nature.

9. The discretion exercised by the Family Court primarily appears to be in tune with the provisions of Sections 14 and 15 of the Family Courts Act, no interference is called for in the impugned order.

10. Petition is disposed of.

(NITIN W. SAMBRE, J.)