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

WRIT PETITION NO. 5188 OF 2022

Mrs. Vidya Ravindra Ghatage ..Petitioner
VS.
Mr. Ravindra Mukund Ghatage ..Respondent

Mr. Ameya S. Tamhane, for petitioner.
Mr. Amol B. Jagtap for respondent.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 10, 2022

P.C. :

1. Heard learned counsel for the petitioner. The order challenged by the petitioner-wife is dated 06/12/2021 passed by the Family Court at Pune rejecting the application Exhibit 35 for setting aside the 'No Cross Order' dated 05/07/2021 and 'No Cross Order' dated 23/08/2021 passed on the evidence affidavit of P.W.2. Learned trial Court was of the opinion that on the dates fixed, the petitioner-wife failed to cross examine the witnesses and had sought adjournment on several occasions. The respondent-husband has filed the petition for divorce. It is true that on the dates

fixed for cross examination of the husband (petitioner before the family Court) as well as P.W.2, the wife failed to remain present and cross examine the husband as well as P.W.2. It is the contention of the learned counsel for wife that she is residing at Sangli and at the relevant time when the impugned orders came to be passed on 05/07/2021 and 23/08/2021, there was SOP in place for the trial Courts because of Covid situation. The wife carried an impression that only urgent matters will be heard and it is the submission of the learned counsel for the wife that there was some communication gap between the lawyer and the wife.

2. In my view, in the present facts, No Cross Orders deserve to be set aside for giving the wife a fair opportunity of representing her case before the trial Court. The default on the part of the wife cannot be said to be so gross that the impugned orders cannot be set aside even upon imposing some cost. Learned counsel for the husband graciously agreed that cost be paid to some charity.

3. Accordingly subject to payment of cost of Rs.1,000/-

to the 'ResQ Charitable Trust, Pune, the address of which is plot no. 3906, Paud Mulshi Road, Old Jakat Naka, Near 115 Hilltown, Bavdhan,Pune 411021', within a period of two weeks from today, the impugned orders are set aside.

4. The writ petition is allowed in terms of prayer clauses (a), (b) & (c) .

5. It is made clear that on the dates so fixed by the trial Court, the wife, through her advocate, to cross examine the husband and P.W.2.

6. The wife to co-operate with the proceedings before the Family Court.

7. Learned counsel for wife on instructions assures that once the evidence of the husband is closed, the affidavit evidence of the wife will be filed within four weeks.

(M. S. KARNIK, J.)