

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7972 OF 2022**

Akshay Kishore Dewani

....Applicant

Versus

Shefali Akashay Dewani

....Respondent

Mrs. Taubon F Irani A/w Tasneem Siddique A/w Disha Shetty, Shefali Dewani Advocate for the Applicant.

R.T. Lalwani a/w Sathana Jayakar lalwani a/w J.K. Shah, Pooja Shah i/by RJ Law Advocate for the Petitioner/husband.

CORAM : S. G. DIGE, J.

DATE : 8th DECEMBER, 2022.

P.C. :

1. Heard learned counsel for the petitioner and learned counsel for the respondent.
2. Learned counsel for the petitioner submits that respondent had challenged the order passed by the Family Court before this Court. During pendency, this Court had requested the Family Court to defer the proceedings till next date. On two occasions this Court had adjourned the matter, thereafter, the matter was not adjourned as it was not listed on that day's board. The petitioner had also pointed out

that this Court had passed the order to defer the proceeding pending before Family Court, but learned Family Court insisted the petitioner to file the evidence, as this Court had deffered the hearing before Family Court. The petitioner tried to bring this fact before the Family Court but learned Family Court without considering this fact closed the evidence of the petitioner which is illegal and improper. Hence, requested to allow the writ petition.

3. Learned counsel for respondent submits that appropriate order be passed .

4. I have heard both learned counsel. This is matrimonial dispute between husband and wife. It is necessary to give fair oppurtunity to both the parties to put their side. Admittedly, this Court had requested the Family Court to differ the hearing of the proceedings, thereafter, without giving chance to the petitioner to lead the evidence. The Family Court has closed the evidence. As observed above, fair opportunity is necessary to give both the parties.

5. In view of above, I pass following orders.

ORDER

- i. Writ petition is allowed.
- ii. Order passed by the Family Court dated 18.09.2021

is quashed and set aside.

iii. The petitioner is permitted to lead evidence. The Family Court is requested to decide the matter as early as possible preferably within 8 months.

(S. G. DIGE, J.)