

VRJ

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

WRIT PETITION NO.8551 OF 2023

VAIBHAV
RAMESH
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VAIBHAV RAMESH
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Date: 2023.10.21
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Saina Ruzbeh Bharucha

... Petitioner

V/s.

Ruzbeh Nariman Bharucha

... Respondent

Ms. Annu Norula with Mr. Ganesh Gupta with Mr. Sahil
Ghorpade for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 20, 2023

P.C.:

1. The petitioner-wife is aggrieved by order dated 23rd October 2021 and consequent order rejection application for recalling of order. The application of modification of earlier order dated 23rd October 2021 has been rejected by order dated 18th January 2023.
2. Learned advocate for the petitioner has filed affidavit of service sworn by the petitioner annexing the copies of acknowledgment of service effected on the respondent. Affidavit is dated 18th October 2023. Paragraph 5 of the said affidavit indicates that the respondent is made aware of the fact that present matter is listed at Serial No.35. Despite this, respondent fails to appear.
3. According to the petitioner who is present in Court, she had never given consent for completing the cross-examination on the dates mentioned in the body of the order. However, the consent

alleged was in relation to 6th and 7th January 2021 but since the event has already occurred, the concession is rendered infructuous.

4. On perusal of order dated 23rd October 2021, it appears that Clauses No.2, 3 and 5 of the operative part are unreasonable in nature. There are no reasons as to why such unreasonable conditions are imposed by the Family Court. In absence of justification to impose such unreasonable conditions, in my opinion, Clauses No.2, 3 and 5 of the operative part of order dated 23rd October 2021 needs to be quash and set aside.

5. Hence, following order:

Clauses No.2, 3 and 5 of the operative part of order dated 23rd October 2021 passed by the Family Court No.4, Pune in P.A. No.1666 of 2018 is quashed and set aside.

6. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)