

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4802 OF 2024

Poonam Jaidev Shroff

... Petitioner

V/s.

Jaidev Rajnikant Shroff

... Respondent

Mr. Swapnil Ambure a/w Anisha Nair, Utid Mehta i/b Naik Naik & Co, Advocate for the Petitioner.

Mr. Navroze Seervai Senior Advocate with Ms. Komal Joshi, Ms. Siddhi Doshi & Rohan Marathe i/by ALMT Legal, Advocate for the Respondent.

CORAM : RAJESH S. PATIL, J.

DATED : 28 MARCH 2024

P.C.:

1. This Writ Petition is filed by the wife challenging order dated 21 March 2024, passed by Family Court Mumbai.
2. A divorce petition was filed by the husband before the Family Court at Mumbai, while the examination-in-chief was recorded of the husband. Cross - examination was to be conducted by the advocate appearing for the wife.
3. The Family Court by its order dated 20 December 2023 passed an order of "No Cross". Subsequently, the said order of 'no cross' was set aside and the advocate appearing for the respondent wife was allowed to cross-examine the witness (husband).

Thereafter, since the cross-examination was not completed the Family Judge on 7 February 2024 again passed an order of “No Cross”. The Family Court Judge noted that the matter was expedited by an order passed by the Supreme Court and if there were some issues about the advocate for the respondent wife being not available to conduct the cross examination, an alternate arrangement could have been made. The said order of 7 February 2024, was challenged by way of a Writ Petition before this Court being Writ Petition No.2898 of 2024.

4. By an order dated 5 March 2024 the said Writ Petition No.2898 of 2024 was disposed of by this Court thereby granting the respondent (wife) as a matter of last chance of four days to cross-examine the husband via video conference between 11:15 a.m. to 1:30 p.m. (ISI). For ease of reference the said order dated 5 March 2024 is reproduced hereinbelow:-

“1. I have heard both the senior counsel, suffice will be the purpose if the Writ Petition is disposed of on certain directions.

2. Accordingly, the Writ Petition is disposed of on the following directions:-

(i). The impugned judgment and order dated 7 February 2024 passed in Exhibit – 57 in Petition No.A-2742 of 2015 is hereby quashed and set aside.

(ii). As a matter of last chance, the Petitioner is allowed through her advocate to cross-examine the sole Respondent via Video Conferencing only for four days i.e. 18 March, 2024, 19 March 2024, 20 March 2024 and 21 March 2024, between 11:15 a.m. to 1:30 p.m. (IST).

(iii). When the cross examination is conducted, the Petitioner is allowed to keep one of her representative to remain present in the hall on the

aforesaid dates i.e. 18 March, 2024, 19 March 2024, 20 March 2024 and 21 March 2024 between 11:15 a.m. to 1:30 p.m. (IST). When the said cross-examination of the Respondent is being conducted at the place where the Respondent would be available for cross-examination, the Respondent through himself or through the advocate will inform in advance at least one week to the Petitioner or her advocate as to the place where he would be available for cross-examination on the scheduled dates. So also the Petitioner will at-least by 14 March 2024 inform the name of the person, who would be attending the cross-examination at the place where the Respondent would be available.

(iv). Both the parties are directed to co-operate with the cross-examination, which is fixed from 18 March 2024 to 21 March 2024.

(v). It is made clear to both the parties that for any reason, if the representative of the Petitioner is not able to attend, cross-examination, the said cross-examination will be held as scheduled and will be completed on the scheduled dates.

3. The Writ Petition is accordingly disposed of.

4. By consent of both the parties, Writ Petition (Lodging) No.34439 of 2023 is also disposed of, in view of disposal of the present Writ Petition No.2898 of 2024.”

5. It is the petitioner's (wife) case now that though the cross-examination was conducted on the allotted four days, however, they were not able to conclude the cross-examination in the said allotted four days, and therefore, they require some more time in order to conclude the cross-examination. He submits that such kind of request was made before the Trial Court however, the Trial Court has rejected their request by its order dated 21 March 2024.

6. Mr. Seervai, has opposed this Writ Petition. He submitted

that twice an Order of “No Cross”, has been set aside. He submitted that this Court of 5 March 2024, as a matter of last chance had granted further time to the petitioner to cross examine the respondent. He submitted that no indulgence be shown by this Court and the Writ Petition should be dismissed.

7. I have heard both the sides and taken into consideration the order passed by me on 5 March 2024, wherein I had given a “Last Chance” to the petitioner / wife’s advocate to cross-examine the respondent / husband only for four days.

8. Therefore, it was made clear to the petitioner’s / wife’s advocate that it was by way of indulgence, a last chance was granted to petitioner, and they were supposed to complete the cross-examination in the allotted four days. In my opinion, if the petitioner’s / wife’s advocates were apprehensive, that in those four days they might not be able to complete the cross-examination of respondent / witness, they could have taken such steps before the allotted date and time was exhausted. In fact though I had opinioned on earlier occasion to grant as a last chance 2 hours each day (for 4 days) in order complete cross-examination, but effectively 15 minutes more were granted on each day. Hence, one hour more was granted. Since the timings were fixed by me from 11:15 a.m. to 1:30 p.m. (IST).

9. I am not satisfied with the reasons / grounds on which further extension of time is sought by the petitioner, to cross-examine the respondent witness.

10. I am of the view that, no case is made out by the petitioner /

wife to entertain this Writ Petition.

10. Hence, the Writ Petition is dismissed. No cost.

(RAJESH S. PATIL, J.)