

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2286 OF 2025

Sarita Ram Shinde

VERSUS

Ram Dnyandeo Patil Shinde

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Advocate for the Petitioner : Ms. Pooja V. Langhe

Advocate for Respondent : Mr. Jain Vishwajeet Ramesh

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JULY 25, 2025

PER COURT :-

1. Heard learned advocates for respective parties.
2. Present writ petition takes exception to order dated 10.01.2025 and 30.01.2025 passed below Exhibit 43 and 44 by learned Family Court at Aurangabad in Petition No.A-420 of 2021.
3. The petitioner is original respondent in Petition No.A-420 of 2021 instituted by respondent/husband seeking decree of dissolution of marriage. Presently, the proceeding is at the stage of evidence. It appears that on 19.08.2024, the witness of respondent/husband recorded his evidence. However, petitioner's advocate was absent. Hence, "no cross order" was passed. On 24.09.2024, petitioner's advocate filed an application below Exhibit 43 seeking to recall "no cross order" dated 19.08.2024 and permit cross-examination. On 10.01.2025, noting absence of petitioner and her advocate, learned Judge Family Court rejected aforesaid application and evidence of petitioner is closed. Thereafter, matter

was posted for final argument. At this stage, petitioner filed an application below Exhibit 44 reiterating the prayers to permit cross-examination of witness of respondent and also permit her to lead evidence. Both these applications are rejected vide impugned order dated 30.01.2025.

4. Learned advocate appearing for petitioner submits that absence of petitioner or her advocate on the given date was unintentional. The petitioner was unwell and her advocate was busy before some other Court and therefore, absence of petitioner or her advocate cannot be said to be deliberate.

5. Learned advocate appearing for respondent would invite attention of this Court to roznama and submits that the petitioner is receiving interim maintenance, hence she is protracting proceeding by adopting various tactics. He would therefore support impugned order.

6. Having considered submissions advanced and looking to nature of litigation, it can be observed that petitioner is facing proceeding of dissolution of marriage instituted by husband. The respondent/husband has examined himself and one more witness. However, the learned Family Court passed “no cross order”. Thereafter, application for setting aside no cross order is also rejected and evidence of petitioner is closed. The aforesaid orders may cause serious prejudice to the petitioner. Although her conduct cannot be

justified, fact remains that petitioner must get reasonable opportunity to defend divorce petition.

7. In that view of matter, impugned orders deserves to be quashed and set aside.

8. Writ Petition is allowed in terms of prayer clause (B).

9. The petitioner is permitted to cross-examine witnesses of respondent and also record her evidence along with witness.

10. The respondent shall keep his witness present on the next date of hearing before Family Court.

11. The petitioner shall complete cross-examination of respondent's witness on the same date. Thereafter, the petitioner may examine herself and her witness before Family Court, their cross-examination shall be completed within a period of seven days thereafter.

12. Writ Petition stands disposed of accordingly.

13. The learned Family Court to endeavour to conclude the proceeding within a period of twelve weeks from the date of this order.

(S.G. CHAPALGAONKAR, J.)