

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3529 OF 2025**

Mohd. Aslam Khokar

...Petitioner

Versus

Asma Aslam Khokar & Anr.

...Respondents

Adv. Nushrat Shah, for the Petitioner.

Mr. Hamid Mulla, AGP, for Respondent No. 2.

Mr. Mubashit Hussain a/w Zubi Ansari i/b Hussain & Co., for
Respondent No. 1.

CORAM: MANJUSHA DESHPANDE, J.

DATE : 07th NOVEMBER 2025

P.C:

1. The Petitioner-husband challenges the order dated 15th May 2023 passed below Exhibit- 22 alongwith the order dated 15th February 2024 passed below Exhibit- 35 in M.J. Petition No. E-74/2017 pending before the Family Court at Bandra. The Petitioner who is the husband of Respondent No. 1 has failed to cross-examine the Respondent herein, consequently, the impugned order came to be passed on 15th May 2023. Though the Petitioner has filed an application to set aside the said order, the Judge, Family Court at Bandra has refused to set aside the order, vide order dated 15th February 2024.

2. According to the Petitioner, since the Petitioner was not supplied with the list of documents, he could not conduct the cross-examination. Though he has constantly requested to supply him the list of documents, his request was ignored, as a result, for want of necessary documents, he could not conduct the cross-examination.

3. The learned counsel for the Respondent has opposed the prayer made by the Petitioner and submitted that the Petitioner was very much in possession of the necessary documents to conduct the cross-examination. Reliance is placed on the Rojanama dated 26th May 2022

and 27th June 2022, to submit that he had filed an application with a prayer to pass 'no cross order' against the Petitioner, since the Petitioner has failed to cross-examine the Respondent for a considerable period.

4. The M.J. Petition No. E-74/2017 is pending before the Family Court at Bandra, filed by Respondent-wife for claim of maintenance from her husband. If the order of 'no cross' passed against the Petitioner is not set aside, great prejudice would be caused to the Petitioner and he would be unable to make out his case, and the pleadings of the Respondent would go unchallenged, which would result in causing great prejudice to the Petitioner. In such circumstances, the Petitioner deserves to be granted one chance, in the interest of justice. Therefore, in my opinion, considering the fact that, the matter is now proceeding with the evidence of the Respondent-wife, it would be appropriate to grant one more opportunity to the Petitioner to cross-examine the Respondent, by passing a conditional order.

5. The inconvenience caused to the present Respondent can be compensated adequately by granting cost of Rs.25,000/- to be deposited in the Family Court, within a period of four weeks.

6. The learned counsel for the Respondent fairly submits that he will furnish a copy of the list of documents to the Petitioner so as to enable him to conduct the cross-examination. In view thereof, the impugned orders passed below Exhibit-22 dated 15th May 2023 and Exhibit-35 dated 15th February 2024 are quashed and set aside subject to deposit of Rs.25,000/- cost by the Petitioner before the Family Court within a period of four weeks.

7. Writ Petition is, accordingly, disposed of in the above terms.

[MANJUSHA DESHPANDE, J.]