

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.19414 OF 2024

Shefali Akshay Dewani	...Petitioner
<i>Versus</i>	
Akshay Kishore Dewani	...Respondent

Ms. Taubon F. Irani a/w. Ms. Disha Shetty, Advocates, for the Petitioner.
Mr. Vineet Naik, Senior Advocate a/w. Mr. J. K. Shah and Ms. Namrata Thakur, Advocates, i/b.RJ Law, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED : 15th JANUARY 2025

P. C.:

1. Heard Ms. Taubon Irani, learned Counsel appearing for the Petitioner and Mr. Vineet Naik, learned Senior Counsel appearing for the Respondent.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the order dated 21st November 2024 passed by the learned Judge, 3rd Family Court, Mumbai below Exhibit-234 in Petition No.A-2049 of 2018 and the order dated 28th November 2024 passed by the

learned Judge, Family Court, Mumbai below Exhibit-235 in Petition No.A-2049 of 2018.

3. By the impugned order dated 21st November 2024, evidence of witness-Smt. Katja Thieme has been discarded *inter alia* on the ground that the name of said witness is not mentioned in the list of witnesses and witness is not relevant witness.

4. By the impugned order dated 28th November 2024, the Application for adjournment to file affirmed copy of evidence of witness-Lauren Striefere has been granted subject to cost of Rs.5,000/- and the said order is challenged only to the extent of imposing cost.

5. As far as the impugned order dated 21st November 2024 is concerned, it is the contention of Ms. Irani, learned Counsel appearing for the Petitioner that the said witness is relevant witness and therefore, the impugned order is not sustainable. She further submitted that part of the order by which cost of Rs.5,000/- has been directed to be paid by the order dated 28th November 2024 be set aside.

6. On the other hand, Mr. Vineet Naik, learned Senior Counsel appearing for the Respondent supported the impugned order. He submitted that the said cost has been imposed as this Court (Coram: A. S. Gadkari, J.) by the order dated 4th December 2019 passed in Civil Writ Petition No.10689 of 2019 with Civil Writ Petition No.10133 of 2019 has *inter alia* directed the learned Family Court to expedite the hearing of the Petition No.A-2049 of 2018 and to make an endeavour to conclude the same within a period of one year. Thereafter, this Court (Coram: M. S. Karnik, J.) by the further order dated 10th March 2021 passed in Writ Petition (ST) No.1955 of 2020 along with Writ Petition No.1824 of 2020 requested the Family Court to decide the Petition No.A-2049 of 2018 as expeditiously as possible and within a period of sixteen weeks from 17th March 2021. He submitted that by the said order, the parties were directed to co-operate with the hearing of the main Petition. He submitted that by the order dated 17th December 2021 time for disposal of said Petition No.A-2049 of 2018 is extended by one year by this Court (Coram: Nitin W. Sambre, J.). By further order dated 8th December 2022 passed by a learned Single Judge (Coram: S. G. Dige, J.) in Writ Petition No.7972 of 2022, learned Family Court was requested to decide the matter

preferably within a period of eight months. He submitted that in view of these directions passed by this Court the order of imposing cost of Rs.5,000/- has been passed.

7. Thus, in the facts and circumstances of this case, no fault can be found with the learned Judge of the Family Court in imposing cost of Rs.5,000/-. However, as Ms. Irani, learned Counsel assures this Court that the Petitioner will completely co-operate for disposal of the said Petition No.A-2049 of 2018 expeditiously the said order needs to be set aside.

8. As far as the impugned order dated 21st November 2024 is concerned, in the facts and circumstances, the said order is also required to be set aside.

9. After arguing the matter for some time, both the learned Counsel tender “Minutes of Order”. Said Minutes of Order are signed by the learned Counsel appearing for both the parties. Said Minutes of Order are taken on record and marked ‘X’ for identification. Said Minutes of Order reads as under:

“MINUTES OF ORDER

1. The impugned order dated 21.11.2024 passed below Exh 234 is quashed and set aside. The impugned order dated 28.11.2024 passed below Exh. 235 to the extent it imposes cost of Rs. 5,000/- is quashed and set aside.

2. The Petitioner agrees, confirms, and undertakes that she will keep her Witness i.e. Ambika Sanjana available (physically/virtually) at 11:00 a.m., for cross-examination before the Hon'ble Family Court, Bandra, Mumbai on 17/01/2025 i.e. on the already assigned date for her cross-examination.

3. The Respondent agree and undertakes to commence and complete the cross- examination of Witness i.e. Ambika Sanjana on the same date i.e. 17/01/2025.

4. The Petitioner further agree, confirms, and undertakes that she will keep her Witness i.e. Ms. Katja Thieme present before the Hon'ble Family Court (physically/virtually) at 11:00 a.m., for cross-examination before the Hon'ble Family Court, Bandra, Mumbai on 24/01/2025.

5. The Petitioner and Respondent further agree, confirm, and undertake not to file any adjournment application/s before Hon'ble Family Court Bandra, Mumbai.

6. Both the parties agree and confirm that they will co-operate with each other for enabling the Petitioner to close her ongoing Evidence in any event and under any circumstances before 31/01/2025, enabling Hon'ble Family Court

*Bandra, Mumbai to finally hear and decide the main
Petition on merits without delay.*

*7. The present Minutes of Order are signed by the
respective Advocates for the parties on instructions
and authority given to them.”*

10. In the facts and circumstances of this case and in the interest
of justice, the Writ Petition is disposed of in terms of the Minutes of
the Order.

[MADHAV J. JAMDAR, J.]

SONALI
MILIND
PATIL

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signed by
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