



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 FIRST APPEAL NO.2271 OF 2026

VISHAL SURYAKANT PAWSHE

VERSUS

ARCHANA VISHAL PAWSHE

...

Mr. G.K. Muneshwar, Advocate for applicant

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CORAM : ROHIT W. JOSHI, J.

DATE : 28th AUGUST, 2026

ORDER :

. Present appeal is filed under Section 96 of the Code of Civil Procedure, 1908 in order to challenge Judgment and Decree dated 21.04.2026 passed by learned Civil Judge Senior Division, Latur in Hindu Marriage Petition No.68/2023, which is a petition filed for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. Section 28 of the Hindu Marriage Act provides that all decrees made by the Court in a proceeding under the said Act shall be appealable as decrees of the Court and shall be appealable before the Court before whom appeals from decrees passed by the learned trial Court ordinarily lie. Section 8 of the Maharashtra

Civil Courts Act provides that except as provided under Sections 16, 17 and 26 the District Court shall be Court of appeal for all decrees and orders passed by subordinate Courts. Section 26 of the Maharashtra Civil Courts Act provides that an appeal shall lie from a decree passed by learned Civil Judge in suits where the value of the subject-matter exceeds one crore rupees. Section 17 speaks about reference of any appeal by the District Judge for adjudication to the Additional District Judge. Section 16 provides that the District Judge may refer any suit or proceeding of civil nature for adjudication to a Court of Additional District Judge and that appeal from decrees to be passed by the Additional District Judge in such suit can lie before a District Judge. Sections 16 and 17 are therefore not applicable to the present case. Perusal of Section 8 will demonstrate that appeal from every decree passed by Civil Judge will lie before a District Court. Section 26 is an exception to the general appellate jurisdiction of a District Court under Section 8. Appeal shall lie from a decree of civil Court before High Court only if the subject matter thereof exceeds Rupees One Crore. In the case at hand the subject-matter of the marriage petition is less than Rupees One Crore. The appeal shall, therefore, lie before the learned District Court. Appeal is, therefore, dismissed with liberty to the appellant to file appropriate appeal before the District Court.

2 Period i.e. from the date of filing of appeal i.e. 08.07.2026 till today shall be excluded for the purpose of limitation of appeal before learned District Court.

(ROHIT W. JOSHI, J.)

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