

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO.614 OF 2013

Shri Ramesh Revansidha Madyalkar
age 38, occ. Service.
R/o. 68, Somwarpeth, Sholapur

.. Appellant.
(Org.Applicant)

V/s

Sou. Rupali Ramesh Madyalkar
Age 38, occ. Household,
R/o. 137, somwarpeth,
Sholapur.

.. Respondent.
(Org. Opponent)

**WITH
SECOND APPEAL NO.613 OF 2013**

Shri Ramesh Revansidha Madyalkar
age 38, occ. Service.
R/o. 68, Somwarpeth, Sholapur

.. Appellant.
(Org. Opponent)

V/s

Sou. Rupali Ramesh Madyalkar
Age 38, occ. Household,
R/o. 137, somwarpeth,
Sholapur.

.. Respondent.
(Org. Applicant)

Mr. Padmakant M. Shah, for Appellant.
Mr. Surel S. Shah, for Respondent.

Coram : Smt. R.P SondurBaldota, J.

Date : 11th March, 2015

P.C.

1. The appellant has filed these two Second Appeals to challenge the concurrent findings of the Courts below on the allegation of cruelty made by the respondent-wife for seeking divorce from him. The Courts have on the basis of the evidence led by the parties held that respondent has succeeded in establishing the fact that appellant had subjected her to cruelty and granted divorce on the ground of cruelty.

Second Appeal No.614 of 2013 is to challenge the judgment and order passed by the District Court, Sholapur on Civil Appeal No.207 of 2011 and Second Appeal No.613 of 2013 is to challenge the order on Civil Appeal No.208 of 2011. Both the appeals were filed by the respondent-wife and have been disposed off by the common judgment and order dated 03rd May, 2013.

2. The appellant had filed Hindu Marriage Petition No.158 of 2008 under Section 9 of Hindu Marriage Act for restitution of conjugal right. The respondent-wife had filed Hindu Marriage Petition No.225 of 2008 for divorce under Section 13 of Hindu

Marriage Act on the ground of cruelty. The Trial Court had initially rejected the petition filed by the respondent and allowed the petition of the appellant. Being aggrieved by that, the respondent preferred the two appeals which came to be allowed by the judgment and order dated 03th May, 2013. The impugned order, allows the petition of the respondent and dismisses the petition filed by the appellant. On appreciation of the evidence, the Appellate Court has concluded that evidence led by the respondent before the Court establishes that she had been subjected to cruelty by the appellant to the extent that there was danger to her life.

3. Mr. P.M. Shah, the learned advocate for the appellant sought to draw attention to the inconsistency between the evidence led by the respondent before the court and the complaint made by her to Human Rights Commission. The Appellate Court accepted the evidence of the respondent and her mother on the incidents of cruelty narrated. Apart from the demand for money and addiction of the appellant to alcohol there is evidence of incident of setting the respondent on fire by the appellant. The parties have admittedly been residing separately since the year 2008. Since the findings are of facts and the same are supported by the material on record, there

is no perversity in the findings. It is a probable view of the matter and hence cannot be interfered with the appeal filed under Section 100 of the Code of Civil Procedure. Further Mr. Surel Shah appearing for the respondent submits that even after the decree for divorce, the appellant has assaulted the respondent and FIR bearing No.37 of 2015 dated 08th March, 2015 for the offences punishable under Section 307, 324 and 506(2) has been registered in Sholapur MIDC Police Station.

4. In the facts and circumstances of the case, there is no merit in the appeals. No substantial question of law arise for the consideration. Hence, the appeals are dismissed.

(Smt. R.P. SondurBaldota, J.)