

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

919 SECOND APPEAL NO. 336 OF 2016
WITH
CIVIL APPLICATION NO. 1664 OF 2010

BHAUSAHEB LAXMAN MANDLIK
VERSUS
SMT JIJABAI BHAUSAHEB MANDLIK AND ORS

...
Advocate for Appellants : Bhalerao R.D.
Advocate for Respondent 1 : D.D. Pakharikar
...

CORAM : T.V. NALAWADE, J.
DATED : 28th June, 2016.

ORDER :

1. The appeal is filed to challenge the judgment and decree of Special Civil Suit No. 28/1995, which was pending in the Court of Civil Judge, Senior Division, Sangamner and also to challenge the judgment and decree of Regular Civil Appeal No. 106/1998 (New No. 728/2000), which was pending in District Court, Sangamner, District Ahmednagar. Both the sides are heard.

2. The suit was filed by present respondent - Jijabai and her daughters for relief of maintenance against the present appellant, husband of Jijabai. Various contentions were made regarding desertion by appellant of his wife and daughters. It was contended that the plaintiffs have no source of income and

they are unable to maintain themselves. It was contended that the husband was having landed property and he was getting sufficient income from which it was possible for him to make separate arrangement of maintenance for his wife and daughters. The husband had contested the matter and both the sides have given evidence.

3. The reliefs were claimed not only of maintenance, but of marriage expenses in respect of plaintiff No. 2 - Rekha. During pendency of the proceeding, Rekha got married and so, maintenance in respect of the period from March 1994 to May 1996 was granted in her favour. On the date of decision i.e. on 1.4.1998, plaintiff No. 3 - Gaya was minor and unmarried and so, maintenance was awarded to her at the rate of Rs. 300/- p.m. Maintenance at the same rate was given to Rakha. To the wife, maintenance at the rate of Rs.700/- p.m. was awarded. Considering the immovable property owned by the husband of plaintiff No. 1, maintenance amount awarded was not on higher side. But, he challenged this maintenance by filing first appeal. The First Appellate Court has confirmed the findings given by the Trial Court. They are on questions of fact.

4. The learned counsel for appellant submitted that

during pendency of the present proceeding, plaintiff No. 3 - Gaya also got married and so, she is not entitled to get maintenance at present. This circumstance cannot be considered in the present proceeding as the propriety of the decisions given by the Courts below is required to be seen. On 1.4.1998 Gaya was entitled to get maintenance, though she may not be able to recover maintenance after the date of her marriage by using present decree. No substantial question of law as such is involved in the matter. In the result, the appeal stands dismissed. Civil Application is disposed of.

[T.V. NALAWADE, J.]

ssc/