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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.877 OF 2012

Rajashree R. Sonavale	...Appellant
V/s.	
Rajkumar D. Sonavale	...Respondent

Mr.Sharad Suryavanshi for the Appellant.
Mr.K.B. Sonwalkar for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 17TH OCTOBER, 2016.

P.C. :-

1. By this appeal filed under section 100 of the Code of Civil Procedure, 1908, the appellant (original defendant) has impugned the judgment and decree dated 21st November, 2011 passed by the learned *Ad-hoc* Additional District Judge – 1, Malshiras, dismissing Civil Appeal No.10 of 2010 filed by the appellant herein. The appellant has impugned the judgment and decree dated 30th April, 2009, passed by the learned trial Judge passing a decree of divorce in Hindu Marriage Petition No.40 of 2004 filed by the respondent husband on various grounds.

2. The marriage was solemnized on 22nd May, 1997. A son is born out of the said wedlock between the appellant and the respondent.

3. The husband filed Hindu Marriage Petition for seeking divorce under section 13(1)(ia) of the Hindu Marriage Act against the appellant.

4. Learned trial Court after considering the oral and documentary evidence, has allowed the said Hindu Marriage petition filed by the husband for seeking divorce after rendering various findings on allegations of cruelty against the appellant.

5. Being aggrieved by the said judgment and decree passed by the learned trial Judge, the appellant herein filed an appeal (Civil Appeal No.10 of 2010) in the Court of *Ad-hoc* Additional District Judge – 1, Malshiras. The first appellate Court formulated five points for determination. After considering the oral as well as documentary evidence, the first appellate Court has rendered a finding of fact that the appellant wife had failed to prove that the respondent husband has subjected her to cruelty in any manner whatsoever. The appellant has also failed to prove that the husband levelled false allegations of cruelty against her with intent to seek divorce against her. The first appellate Court after considering the fact of filing criminal proceedings filed by the parties against each other and more particularly by the appellant against the respondent held that it would not be possible for reunion between the husband and wife. The matrimonial relations between them have become strained to such an

extent that both of them do not want to see faces of each other. The appellant was convicted by the Judicial Magistrate First Class, Malshiras in the complaint case filed by the husband. The learned trial Court had condemned the FIR filed by the appellant against the husband for subjecting her to cruelty. The respondent was required to obtain anticipatory bail from the Sessions Court.

6. A perusal of the judgment and decree passed by the learned trial Judge and by the first appellate Court indicates that after considering the oral as well as documentary evidence, various findings of cruelty are rendered against the appellant and in favour of the respondent. In my view, the findings rendered by the two Courts below being concurrent and being not perverse, cannot be interfered with by this Court in this appeal filed under section 100 of the Code of Civil Procedure, 1908.

7. No infirmity can be found with the judgment and decree passed by the two Courts below. The appeal is devoid of merits. No substantial questions of law arises in this appeal.

8. I therefore, pass the following order :-

- a). Second Appeal No.877 of 2012 is dismissed.
- b). No order as to costs.

(R.D. DHANUKA, J.)