

Sequeira

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

***WRIT PETITION NO. 8581 OF 2015
Along with
WRIT PETITION NO. 8582 OF 2015***

Shri Ashok Raniyabhai Patel.

... Petitioner

Vs

Vanitaben Ashokbhai Patel.

... Respondent.

Mr. Manoj Badgujar, for the Petitioner in both petitions.
None for the Respondent.

***CORAM : N.M. Jamdar, J.
Friday, 16 September 2016.***

P.C. :

Both these Petitions arise between the same parties who are husband and wife and are argued together by the learned counsel for the Petitioner.

2. The Petitioner had filed suit initially for restitution of conjugal rights and thereafter for divorce. It appears that a decree was passed by the learned Civil Judge, Silvassa on 14 December 2011 declaring that the marriage between the parties stands dissolved. Thereafter the Respondent has filed an application for recall of the orders. In these suits an application was made by the Petitioner to frame issue as regards limitation which has been rejected by the impugned order.

3. Heard learned counsel for the Petitioner. The apprehension expressed by the learned counsel for the Petitioner that in view of the impugned order the learned Judge will not consider the aspect of limitation at all, is unwarranted. The issue of limitation will have to be decided by the learned Civil Judge. The aspect of limitation which goes to the root has to be considered by the Court, which is a settled position of law. In view of the above position which is clarified, no prejudice is caused to the Petitioner by the impugned order. Both the Petitions are accordingly rejected.

(N.M.Jamdar, J.)