

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY**

BENCH AT AURANGABAD.

**FAMILY COURT APPEAL NO.30 OF 2016
WITH
C.A.NO.14634 OF 2016**

Shri Sandip S/o Samsherrao
Jadhav. ... Appellant.

Versus

Sau. Chhaya W/o Sandip
Jadhav. ... Respondent.

...

Mr.A.P.Khedkar, advocate for the appellant.
Mr.Kshitij Surve, advocate holding for Mr.Hemant
Surve, advocate for the Respondent.

...

**CORAM : S.V.GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

Date : 01.09.2017.

PER COURT :

1. The husband assails the judgment and decree passed by the Family Court in a petition filed by the present Respondent, seeking restitution of conjugal rights.

2. Mr.Khedkar, learned counsel for the appellant submits that the defence of the present appellant was struck down on account of non-compliance of order of depositing the amount. Subsequently, no cross order was passed. The appellant did not get any proper opportunity to contest the matter. The case of the appellant is that the appellant is already married and has issues from his marriage with one Sonali in the year 2002. The Respondent is also married with one Sudhir. However, as the appellant did not get opportunity to adduce evidence and as the defence was struck out, the case could not be proved. An opportunity deserves to be given to the appellant.

3. We have heard Mr.Surve, learned counsel for the Respondent.

4. It is a matter of record that the appellant was directed to deposit the amount and on non-deposit of amount the defence is struck off. Subsequently, no cross order is also passed. The amount which the appellant was

required to deposit with the Family Court was to the tune of Rs.2,00,000/- (Rupees two lacs). The appellant was directed under order dated 14.3.2017, in this appeal to deposit the amount of maintenance awarded by the Judge, Family Court within a period of four weeks from the said date. The amount due and payable was to the tune of Rs.2,00,000/- (Rupees two lacs). We extended time to deposit the said amount but as yet the amount is not deposited. Lastly, on 8.8.2017, we had granted time at the request of the learned counsel for the appellant.

5. As yet, the amount is not deposited.

6. The appellant has not led any evidence. As such the contention of the present Respondent naturally, are proved by the evidence of the Respondent. The marriage certificate issued by the Registrar of Marriages is filed on record, so also the photographs. The case of the Respondent that the appellant forcefully took her to her parents house is accepted by the Family Court. The appellant has failed to perform his marital

obligations.

7. Considering above, the appeal is dismissed. No costs.

8. The Civil Application also stands disposed of.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

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