

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

WRIT PETITION NO. 9375 OF 2016

Sonika Nitin Naik
Age: 29 years, Occu.: Nil,
R/o At Kasod, Post Talni,
Tq. Sillod, Dist. Aurangabad.
Present r/o House No. 5-13-72/1,
Padampura, Railway Station Road,
Aurangabad.

..PETITIONER

VERSUS

Nitin Vinayakrao Naik
Age: 39 years, Occu.: Pr. Service,
R/o S. No. 139/1A, Bhelkenagar,
Kothrud, Pune-38.

..RESPONDENT

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Mr. Anandsingh Bayas, Advocate for petitioner.
Mr. P.G. Giri, Advocate for respondent.

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**CORAM : S.B. SHUKRE, J.
DATED : 09th MARCH, 2017**

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard both sides by consent for final disposal.

2. Divorce petition is filed by present petitioner – wife against respondent – husband on the ground of impotency of respondent. The

petitioner has sought direction from the Court to be given to respondent that he shall compulsorily undergo the potency test. This application has been turned down by impugned order dated 18th July, 2016. The Civil Judge has reasoned that there is no provision of law by which such compulsion can be brought upon the husband. The Civil Judge also observed that at the most the petitioner may request the Court for drawing of adverse inference against respondent, consistently with well settled principles of law.

3. Learned Counsel for petitioner could not show to this Court any provision of law or any case law which would advance the case of petitioner in this matter.

4. I do not see any illegality in the impugned order. Petition stands dismissed with costs. Liberty is granted to move to the Trial Court for seeking divorce by mutual consent in accordance with law, if any, in view of the statement made on behalf of respondent by his Counsel that respondent is ready for divorce by mutual consent. Rule is discharged.

(S.B. SHUKRE, J.)

SSD