

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

Review Application (Civil) No. 0166 of 2016
(In Second Appeal No. 0155 of 2014)

District : Aurangabad

Vasant s/o. Annasaheb Matsagar,
Age : 39 years,
Occupation : Service,
R/o. Department of Civil Engineering,
Indian Institution of Technology
(I.I.T.), Hauz khas, New Delhi-110016,
Through his Power of Attorney Holder,
Mr. Ashok Annasaheb Matsagar,
Age : 47 years,
Occupation : Business,
R/o. Plot No.16, Swatantra Sainik
Colony, Nageshwarwadi, Aurangabad.

.. Applicant
(Original
plaintiff)

versus

Sow. Yogita w/o. Vasant Matsagar,
Age : 34 years,
Occupation : Service,
R/o. C/o. Present Gulabrao Rajaram
Jadhav,
Shivnagar, Kannad, Taluka Kannad,
District Aurangabad.

.. Non-applicant
(Original
defendant)

.....

Mr. V.B. Garud, Advocate, for the applicant.

*Mr. P.A. Kulkarni, Advocate, for the
non-applicant (Absent).*

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CORAM : T.V. NALAWADE, J.

DATE : 03RD APRIL 2017

ORAL ORDER :

This Application is filed for review of the order made by this Court on 19.08.2015 in Second Appeal No. 155 of 2014.

02. Heard learned Advocate for the applicant.

03. Learned Advocate for the applicant - husband submitted that in divorce proceedings filed on the ground of cruelty, the written statement was filed by wife, in which, she had made wild and false allegations against the husband, that he had illicit relations with other woman. Learned Advocate for the applicant submitted that this ground ought to have been considered by the trial Court and also by the lower appellate Court.

04. Learned Advocate for the applicant has placed reliance on the observations made by a Division Bench of this Court in the case of **Nita @ Nathi Hitendrakumar Sakariya Vs. Hitendrakumar Kaluram Sakariya (2010(3) Mh.L.J. 568)**. The facts of the reported case were altogether different.

05. If there were such allegations made by the non-applicant - wife against the applicant - husband, then issue in that regard could have been framed and such issue could have been decided. Thus, it was a matter of evidence and unless that was done, the point could not have been decided.

06. Submissions made and the order made by this Court shows that this point was not argued when the Second Appeal was heard on merits. Thus, the contention made is beyond the scope of review.

07. Hence, the Review Application is rejected.

(T.V. Nalawade)
JUDGE

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