

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.858 OF 2016
WITH
CIVIL APPLICATION NO.1698 OF 2016

Sou. Supriyanka Santosh Mahadik Appellant

Vs.

Shri. Santosh Namdev Mahadik Respondent

Mr. Sachin Hande, Advocate for the Appellant.
Mr. Ranjit Patil, Advocate for Respondent no. 1.

Coram : **N.M. Jamdar, J.**

Date : 11 April, 2017

P.C.:

This Second Appeal is filed by the wife who was the Respondent in the petition No. 309 of 2010 filed by the husband-respondent before the Court of Civil Judge, Senior Division, Sangli. The petition was filed for restitution of conjugal rights which was allowed by the learned Civil Judge. The appeal filed by the Appellant to the District Court was dismissed by the learned District Judge by the judgment and order dtd. 29 April 2016. The Appellant-wife is aggrieved by the directions given by both the Courts that she should cohabit with the respondent-husband.

2 The learned counsel for the respondent submitted that inspite of the orders passed by both the courts, the Appellant-wife is not resuming cohabitation and therefore the Respondent-husband is not interested in executing the impugned judgement and decrees or seeking cohabitation and the Respondent has now filed Divorce Petition No. 236 of 2015, which is being contested. These statements are accepted. In view of this stand of the Respondent-husband, the challenge in the present Second Appeal is rendered academic. The Second Appeal is accordingly disposed of. It is made clear that I have not considered the merits of the rival contentions in this Second Appeal and the divorce proceedings will be considered on their own merits and all contentions of the parties are kept open.

3 In view of disposal of the Second Appeal, the Civil Application does not survive, the same is accordingly disposed off.

(N.M. Jamdar, J)