

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

SECOND APPEAL NO. 428 OF 2016
WITH CA/8974/2016 IN SA/428/2016

Bhika Harchand Koli, Age 70 years, Occu. Pensioner, R/o. Betawad, Tal. Shindkheda, Dist. Dhule.	..	Appellant (Original Defendant)
Versus		
Nimbabai w/o. Bhika Koli, Age 62 years, Occu. Houshold, R/o. Mandana, Tal. Shahada, Dist.Nandurbar.	..	Respondent (Original Plaintiff)

...
Advocate for Appellant : Mr.D.A.Mane h/f. Mr.Durgesh M. Pingale.

...
CORAM : P. R. BORA, J.

DATED : 13th AUGUST, 2018.

Order :-

Heard Mr.Mane h/f. Mr. Pingale, learned counsel appearing for appellant.

2. The present respondent had filed Regular Civil Suit No. 67 of 1995 in the Court of Civil Judge, Senior Division, Shahada, seeking maintenance from the present appellant under the provisions of the Hindu Adoption and Maintenance Act. The Civil Judge, Senior Division, vide order passed on 03-10-2009, partly decreed the suit filed by the present respondent. The trial Court directed the present appellant to pay Rs.1200/- per month to the present respondent towards the maintenance from the date of suit. The appellant, though, preferred Regular Civil Appeal No. 13

of 2009 in the Court of Ad-hoc District Judge -1, at Shahada, learned Ad-hoc District Judge-1, vide the Judgment delivered on 05-09-2015, dismissed the said appeal. Aggrieved by, the appellant has filed the present second appeal.

3. The learned counsel for the appellant sought to contend that, both the Courts below have failed to appropriately consider the evidence brought on record. The learned counsel submitted that the basic requirement for grant of maintenance was, whether the plaintiff i.e. present respondent is unable to maintain herself and the another question is, whether the present appellant is having any source to pay maintenance at the said rate.

4. The learned counsel further submitted that since the appeal involves substantial questions of law, it requires consideration.

5. After having heard the learned counsel appearing for the appellant and on perusal of the Judgments passed by the Courts below and the evidence on record, apparently it does not appear to me that, any substantial question of law is involved in the present second appeal. The Courts below have recorded unambiguous findings that, the respondent wife was deserted by the present applicant without any reasonable cause and a right, therefore, has accrued in her favour for claiming maintenance from her husband i.e. the present applicant. The Courts below, on the basis of the evidence adduced by the parties, have further

recorded the clear finding on the issue that the wife has sufficiently proved that she was not having any source of income for her own maintenance and that the respondent husband i.e. present applicant was capable of paying maintenance to his wife. The Courts below after analyzing evidence on record have determined the amount of maintenance to the tune of Rs.1200/- per month. The amount so determined, in no way appears to be unjust or unreasonable. The other issues as raised have also been properly dealt with by the Courts below. It has to be further stated that, the objections raised against the Judgments passed by the Courts below do not raise any substantial question of law and are based on factual aspects. I am, therefore, not inclined to entertain the present appeal. Hence, the following order :-

ORDER

1. The appeal stands dismissed.
2. Pending civil application stands disposed of.

[P. R. BORA]
JUDGE

rrd.