

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO. 910 OF 2015

Anil Bhupal Avadhut	...	Appellant
V/s.		
Smt.Vidya Anil Avadhut	...	Respondent

- Mr.Vikram N. Walawalkar i/b. Mr.Suresh M. Sabrad for the Appellant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 20th JUNE, 2018.

P.C. :

- 1] Heard learned counsel for the Appellant.
- 2] This Second Appeal is preferred against the judgment and decree dated 28th April, 2015 passed by the District Judge-4, Sangli, thereby dismissing Regular Civil Appeal No.21 of 2010 which was preferred against the judgment and decree dated 27th November, 2009 passed by the Civil Judge, Senior Division, Sangli, in Marriage Petition No.72 of 2006.
- 3] The said Marriage Petition was filed by the present Appellant seeking decree of divorce on the ground of cruelty and desertion. The cruelty alleged is that the Respondent-wife did not

convey to the Appellant about the birth of their child and did not invite him for 'Naming Ceremony' of their child. It was also alleged that the Respondent-wife has deserted the Appellant from March 2004 without any due cause. An attempt is also made to contend that she was frequently in habit of going to the house of her parents. All these allegations were denied by the Respondent-wife contending that the Appellant was very much informed about the birth of the child and also invited for 'Naming Ceremony' and she was all along ready and willing to co-habit with the Appellant.

4] The trial Court, on appreciation of the evidence on record found that the allegations made in respect of the alleged cruelty are of very trifling and general nature. They do not made out the ground of cruelty as contemplated in the various decisions of the Hon'ble Apex Court, including the judgment of the Hon'ble Apex Court in the case of *V. Bhagat Vs. D. Bhagat, AIR 1994 S.C. 710*. The Appellate Court also confirmed the said finding on re-appreciation of the evidence and further finding that the Respondent has never filed any proceedings against the Appellant, she has not even applied for maintenance and therefore, she appears to be ready for cohabitation. Hence, both the trial Court and the Appellate Court, on appreciation of evidence on record, came to the conclusion that no sufficient ground is made out to

get the decree of divorce and has thus rightly dismissed the suit and the appeal.

5] The only submission advanced by learned counsel for the Appellant is that, as the parties are residing separately since the year 2004, if notice is issued to the Respondent, the possibility of amicable resolution of the dispute can be explored. In my considered opinion, on this ground notice cannot be issued to the Respondent. If parties want to settle their dispute amicably, they would have done so, as the matter is pending in the Court since the year 2006 and both the parties had appeared before the trial Court and the Appellate Court also. Secondly, if they want to resolve the dispute, they can take appropriate proceedings, but there is no point in admitting this Second Appeal and to keep it pending for years together.

6] Second Appeal therefore stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]