

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 46 OF 2018

VIJAYANAND DATTARAM NAIK., ... Appellant

Versus

PURNIMA SAKHARAM PARAB., ... Respondent

Shri Agha Iftikhar, Advocate for the appellant.

Shri Ashwin D. Bhobe, Advocate for the respondent.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 12th February 2019

P.C.:

Heard Shri I. Agha, learned Advocate for the appellant and Shri A.D.Bhobe, learned Advocate for the respondent.

2. Shri Agha, learned Advocate for the appellant concedes that both the Courts had held against him and dismissed the suit filed by him under Article 4(4) of the Family Laws in force in the State of Goa. According to him, since the marriage between the parties had irretrievably broken down, two substantial questions arose for formulation. He placed reliance on Naveen Kohli v/s. Neelu Kohli [(2006) 4 SCC 558], a judgment of a three Judge Bench of the Hon'ble Apex Court which dealt with the ground of cruelty and the ground available to maintain a suit for divorce under the Hindu Marriage Act, 1955.

3. The judgment is clearly distinguishable on the fact that it does not advance the case of the petitioner in order to formulate the substantial question of law on the ground of irretrievable breakdown of the marriage between the parties. Admittedly, the suit was maintained on the ground of ill-treatment and cruelty under Article 4(4) of the Family Laws and on that count the Trial Court as well as the First Appellate Court had held against the appellant and that he had failed to prove the case against the respondent on these grounds. No ground of irretrievable breakdown of the marriage is available under the Family Laws applicable in the State of Goa and on this ground alone no substantial question arises for determination.

4. In view thereof, the appeal stands dismissed.

NUTAN D. SARDESSAI, J.

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