

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL No. 140 OF 2016
WITH
CIVIL APPLICATION No.220 OF 2016
IN
SECOND APPEAL No.140 OF 2016

Shri Mahesh Baban Walunj ...Appellant
Vs.
Sau Kantabai Mahesh Walunj ...Respondent

Mr. Pramod J. Pawar for Appellant
Ms. Yashoda Jondhale i/b. Jondhale & Co for Respondent

CORAM: S.C. GUPTE J.

DATED : NOVEMBER 8, 2019

PC. :

1. This second appeal challenges a judgment and order passed by the District Court at Pune, confirming the order passed by the Joint Civil Judge, Senior Division, Pune in Hindu Marriage Petition No. 732 of 2010, dissolving the marriage between the parties by a decree of divorce and ordering the Appellant herein, who was the Original Petitioner, to pay lumpsum maintenance of Rs.5,00,000/- for the Respondent Wife and her daughter Sheetal, in addition to the maintenance granted by the Judicial Magistrate, First Class, Godnadi in domestic violence proceedings. The Appellant was also directed to deposit a sum of Rs.2,00,000/- for marriage expenses of the parties'

daughter Sheetal within three months. Neither of these amounts has been paid or deposited by the Appellant. The Appeal does not challenge the decree of divorce. The challenge is restricted to the decree of maintenance and marriage expenses passed by the District Court.

2. It is apparent from the impugned order of the District Court that there was practically no inquiry worth its name for determining the amount of maintenance or marriage expenses. On these facts, an order was passed by this Court on 14th May, 2017, indicating its proposal dispose of the second appeal finally at the stage of admission on the specific question of law arising in the second appeal as to whether the lower appellate court was right in ordering permanent alimony and marriage expenses without holding any inquiry as to the needs of the respondent wife and her daughter or the financial position of the appellant husband for paying the same. Notice was accordingly issued to the Respondent

3. Learned counsel for the Respondent has no objection to the decree of maintenance and marriage expenses being quashed and set aside, and remand of the matter to the District Court, Pune for a fresh hearing in accordance with law. Learned counsel, however, submits that the Appellant has not paid any amount whatsoever towards maintenance of the respondent or her daughter Sheetal or any part of

marriage expenses of Sheetal, over and above whatever was paid in accordance with the order of the Judicial Magistrate, First Class, Godnadi in the domestic violence proceedings. Learned counsel submits that some ad-hoc maintenance amount would have to be paid to the Respondent wife, if the matter is to go back to the District Court for a fresh hearing.

4. Learned counsel for the Appellant leaves the matter of determining such ad-hoc compensation to this Court, submitting that he would not insist on any reasons to be stated in the order.

5. Accordingly, the impugned order passed by the District Court, to the extent it relates to permanent alimony of Rs.5,00,000/- and marriage expenses of Rs.2,00,000/-, is quashed and set aside and Civil Appeal No. 1076/2012 is remanded to the District Court for a fresh hearing in accordance with law for determining the amounts payable. Considering the limited issue now before the District Court, the District Court is requested to dispose of the civil appeal on the questions of maintenance and marriage expenses as expeditiously as possible, and, preferably, within a period of six months from today. Pending the hearing and final disposal of the civil appeal, the Appellant herein is directed to pay a sum of Rs.1,50,000/- to the Respondent as an ad-hoc part payment of permanent alimony and marriage expenses. This

amount shall abide by the final order that may be passed by the District Court on remand. The amount shall be paid by the Appellant to the Respondent within six weeks from today. The second appeal is disposed of accordingly.

6. In view of the disposal of the second appeal, the civil application does not survive and is disposed of accordingly.

(S.C. GUPTE, J.)