

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FAMILY COURT APPEAL NO. 46 OF 2019

(ARCHANA SANJAY NANDANWAR...VS.. SANJAY SUDHAKAR NANDANWAR)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Smt. J.D.Dharmadhikari, Advocate for Appellant.

CORAM : Z.A.HAQ AND
PUSHPA V. GANEDIWALA, JJ.

DATED : OCTOBER 01, 2019.

Heard.

Respondent (husband) has filed petition before
the Family Court seeking reliefs in the following terms:

*“i) to pass a decree of divorce dissolving the
marriage dated 10/07/2000 solemnized
between the petitioner and the respondent.
ii) pass money decree against the respondent
to return the amount Rs.3,50,000/- with
interest @ 24% p.a. till its realization.
iii) to grant maintenance & Rs.20,000/- p.m.
to son Akshat;
iv) to grant any other relief deems fit &
proper;
v) to allow the petition with costs.”*

The appellant(wife) had filed an application
(Exh.59) under Order VII Rule 11(d) of the Code of Civil
Procedure contending that the prayer clause (ii) cannot be
granted by Family Court inasmuch as the Family Court is not
having jurisdiction to adjudicate such grievance and grant
such relief to the party. This application is dismissed by the
impugned order.

After examining the controversy, we find that the prayer clause (i) of the petition that ‘decree of divorce dissolving the marriage between the parties be passed’ can be considered by the Family Court. It is well settled that while considering the application under Order VII Rule 11 of the Code of Civil Procedure, plaint/petition cannot be rejected in its entirety if some relief sought by the plaintiff/petitioner can be granted by the concerned Court.

We find that the learned trial Judge has properly appreciated the controversy. It cannot be said that the impugned order suffers from illegality or infirmity which necessitates interference by this Court.

Hence, the appeal is **dismissed**. No costs.

JUDGE

JUDGE

RRaut..