

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

Second Appeal No.625 of 2018

Sau. Smita Yuvraj Gaikwad

Versus

Yuvraj Kundalik Gaikwad

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.J. Shinde, Advocate for the Appellant/Original Respondent

CORAM : ANIL S. KILOR, J.

DATED : 16th NOVEMBER, 2021

The present appeal has been preferred against the concurrent findings recorded by both the Courts-below, dissolving the marriage between the Appellant and the Respondent on the ground of cruelty.

2. The brief facts of the present case are as follows. (parties are referred as per their status before the trial Court)

3. The Respondent/original Petitioner filed Hindu Marriage Petition seeking decree of divorce for dissolving the marriage solemnized with Appellant/original Respondent on 23.05.2014, which was solemnized as per the Buddhists' rites at Digras. Both the parties are Buddhists religion and therefore, the Hindu law is not applicable to them. The decree of divorce was sought on the ground of cruelty, stating that the behaviour of the Appellant was not proper,

she disrespected the family members of the Petitioner and instances of cruelty were narrated in the petition.

4. The Appellant in her written statement, except admitting marriage, denied all the allegations against her.

5. The learned trial Court after framing issues and recording the evidence, allowed the petition on appreciation of oral as well as documentary evidence in favour of the Petitioner and dissolved the marriage between the Petitioner and the Respondent vide judgment and decree dated 06.05.2017 passed in Hindu Marriage Petition No.63 of 2015 by the Civil Judge Senior Division, Kelapur. Feeling aggrieved by the said judgment and decree, the Respondent had preferred an appeal namely Regular Civil Appeal No.30 of 2017 before the Additional District Judge, Kelapur which came to be partly allowed by maintaining the decree of divorce vide impugned judgment and decree dated 20.01.2018, the same is under challenge in the present appeal.

6. I have heard the learned counsel for the respective parties.

7. Shri Shinde, learned counsel for the Appellant submits that the findings recorded by both the Courts-below as regards cruelty are without evidence and hence, the said findings are perverse. Shri Shinde, learned counsel for the Appellant has not argued any other point, therefore, to consider the contention raised

by the learned counsel for the Appellant, I have gone through both the judgments passed by both the Courts-below.

8. After going through the judgments, it is revealed that the Petitioner has brought sufficient oral as well as documentary evidence on record in support of his case. Whereas, the Appellant has given some admissions as regards customary divorce took place between the Petitioner and the Respondent/Appellant. Both the Courts-below have considered the evidence in detail and have concurrently held in favour of the Petitioner.

9. In that view of the matter, I do not find favour in the contention raised by the Appellant that without sufficient evidence the decree of divorce has been passed, allowing that on the ground of cruelty. Hence, I do not find any substantial question of law involved in the present appeal.

10. Accordingly, the appeal is dismissed. No order as to costs.

[ANIL S. KILOR, J.]