

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.
MISC. CIVIL APPLICATION (REVIEW) NO.375/2018 IN
SECOND APPEAL NO.484/2014(D)
Pandurang T.Nikure through LRs
Vs.
Smt. Mangala Sanjay Nikure and anr.

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

Court's or Judge's Order

Shri P.P.Pendke, Advocate for applicants.
Shri A.A.Dhawas, Advocate for non-applicant nos. 1 and 2.

CORAM :- A.S.CHANDURKAR, J.

DATED :- JULY 09, 2021.

It is submitted by Shri P. P. Pendke, learned counsel for the applicants that the prevalence of customary divorce between the parties was not proved by the plaintiffs and therefore the appellate Court was justified in setting aside the decree that was passed by the trial Court. According to him, in absence of such custom being proved the case of the plaintiffs was not liable to be accepted. Ignoring this aspect the second appeal came to be allowed on 3rd August, 2017. Placing reliance on the decision in ***Shalini Dhanraj Shirsat Vs. Dhanraj s/o Tukaram Shirsat, 2017(5) Mh.L.J. 199*** it is submitted that the judgment in the second appeal deserves to be reviewed.

Shri A.A.Dhawas, learned counsel for the non-applicants on the other hand submits that the second appeal has been decided after appreciating the evidence on record and there is no error apparent on the face of record.

After hearing the learned counsel for the parties and after perusing the judgment in Second Appeal No.484/2014, I find that the substantial question of law as framed has been answered and in paragraphs 7 to 10 reasons have been assigned. A finding has been recorded that the existence of the custom was proved by examining

the witness at Exhibit 67 and thereafter the parties separated on 28.12.2001 in accordance with the custom.

I find that further re-appreciation of evidence in exercise of review jurisdiction would not be permissible. I do not find any error apparent on the face of record to invoke review jurisdiction. The miscellaneous civil application is therefore rejected.

JUDGE

Andurkar.