



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO.27 OF 2021
WITH CA/793/2021 IN SA/27/2021

Dnyaneshwar s/o. Bhimraj Dighe,
Age 36 years, Occu. Service,
R/o. Talegaon Dighe, Tal. Sangamner,
District Ahmednagar

.. Appellant
(Original Defendant)

Versus

Payal Dnyaneshwar Dighe,
Age 30 years, Occu. Household,
C/o. Balasaheb Maruti Fhand,
R/o. Sarola Advai, Post Jamgaon,
Tal. Parner, District Ahmednagar

.. Respondent
(Original plaintiff)

Mr. Y. S. Choudhari, Advocate for Appellant

CORAM : S. G. MEHARE, J.
DATE : 08-12-2023

PER COURT :-

1. Heard the learned counsel for the appellant/defendant.
2. The husband has preferred the second appeal against two concurrent judgments of restitution of conjugal rights in favour of his wife. The husband had a defence that the respondent/wife was living an adulterous life. He alleged against her that she used to talk to her maternal brother on the phone for hours. She was telling him that she had good marriage proposals; unnecessarily, she came to Sangamner at such a long distance and liked her maternal brother. She had a relationship with him before her marriage. They were intending to marry. She, at her own accord, deserted him. He had their chat recording on a mobile phone. Both Courts considered fact and, appreciating the material on record,

held that the present appellant failed to prove that she lives in adultery.

3. Learned counsel for the appellant tried to argue that the Court granting decree for restitution of conjugal rights did not appreciate the evidence appropriately.

4. Perusal of both judgments reveals that there are specific findings that the appellant/husband did not prove the allegations of adultery. An adultery is barely a question of fact. There are concurrent judgments of facts. There is nothing on record to believe that the Court of First Instance and First Appellate Court incorrectly appreciated the evidence and recorded perverse findings. The law is well settled that normally, under Section 100 of the Code of Civil Procedure, the Court should not interfere with the facts.

5. This Court is of the view that the material placed on record vide Civil Application No.793 of 2021 does not help him believe his case and interfere with the impugned judgments and decrees.

6. Hearing the learned counsel for the appellant, the Court is of the view that no substantial questions of law are involved in the appeal. Hence, the second appeal stands dismissed at the admission stage.

7. Since the application has no substance, the civil application stands disposed of.

(S. G. MEHARE, J.)