



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

SECOND APPEAL NO. 376/2019

Shyam Ramsingh Jadhav .Vs. Sou. Nita Shyam Jadhav

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

Court's or Judge's orders

Mr. A. S. Manohar, Advocate for appellant.
Mr. S. B. Gandhe, Advocate for respondent.

CORAM : ANIL L. PANSARE, J.
DATE : DECEMBER 9, 2024

Heard Mr. A. S. Manohar, counsel for the appellant
and Mr. S. B. Gandhe, counsel for the respondent.

2. The proceeding arises out of the matrimonial dispute. The appellant had approached the Court of Civil Judge Senior Division, Yavatmal under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights. The Trial Court decreed the suit and directed the respondent-wife to restitutive her conjugal rights with the appellant. The findings were assailed by the wife before the First Appellate Court in Regular Civil Appeal No.72/2015. The appeal has been allowed on the count of inconsistent stand taken by the husband.

3. It appears that the husband had, before the Trial Court, filed application Exh.-27 seeking custody of the child. He, however, in the said application, stated that on 13.02.2010, the wife demanded Rs.2,00,000/- to meet expenses of her sister's marriage. Thereupon the dispute arose and the wife left the house. In the petition seeking restitution of conjugal rights, however, the husband had taken a plea that on 14.02.2010, his

wife's mother had been to hospital at Yavatmal to meet relatives. Thereafter, the wife left matrimonial house with her mother. This led the First Appellate Court draw a conclusion that the husband's version is not credible. The First Appellate Court found that the husband failed to show that the wife had left the company for the reason assigned by him viz. she demanded Rs.2,00,000/-, thereupon, there occurred dispute and because of that the wife left the company.

4. As against, the wife led evidence and demonstrated that she received physical and mental harassment at the hands of the husband. The wife has, in her evidence, deposed that on 13.02.2010, there occurred dispute on the point as to why the wife didn't close the door. The husband pulled her by hair and beat her mercilessly. He snatched ornaments and drew the wife out of the house with a threat that if she returns back, he will kill her. The wife, having no other alternative, left the company of the husband.

In fact, on the basis of aforesaid allegations, the wife has successfully filed petition for maintenance and the Court directed the husband to pay Rs.8800/- per month to the wife and son.

5. The First Appellate Court, has considered the evidence and doubted the credibility of the husband's version on the basis of his own pleadings. It has taken a view that the husband failed to prove that his wife has left the company for the reasons as assigned by him. The First Appellate Court further found that

the wife had a reasonable excuse to live separately, rather had no other alternative but to reside separately.

6. In view of the above, it cannot be said that the finding of the First Appellate Court of having sufficient cause to reside separately is perverse. The substantial question of law as proposed through the appeal memo revolves around the sufficiency of cause itself. The counsel for the respondent is right in contending that no substantial question arises as proposed by the appellant. The appeal is, therefore, dismissed. No order as to costs.

(Anil L. Pansare, J.)

Kahale