



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1685 OF 2024

Dr.Raghvendra Suhir Deshmukh

-Vs.-

Dr.Vaibhavi Raghavendra Deshmukh

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.Saurabh A. Chaudhari, counsel for the petitioner.

CORAM : B. P. DESHPANDE, J.

DATE : 8TH MARCH, 2024

P.C.

Heard Mr.Chaudhari, learned counsel for the petitioner.

2. The order challenge in the present petition is dated 26/09/2023 passed by the learned Family Court, Buldhana, whereby the application filed under Order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint, has been dismissed.

3. The learned counsel for the petitioner would submit that first of all, there is no cause of action mentioned in the plaint for filing the petition on the ground of cruelty as well as on the ground of desertion. He would further submit that as far as desertion is concerned, the said plaint itself shows that such relief claimed therein was premature, as mandatory period of two years was not completed at the time of filing of the plaint.

4. On perusal of the plaint as well as the impugned order, it would be necessary to note that the wife/respondent herein categorically pleaded about the facts of alleged cruelty which was meted out to her by the husband and these contentions have been considered by the learned Family Court in detail. Para-17 of the order clearly goes to show that specific dates are disclosed in the plaint in connection with the cruelty and the same is considered as cause of action for the purpose of filing of the plaint.

5. With regard to the ground of desertion which has been pleaded by the wife, the learned Family Court has rightly observed in para-37 that such relief claimed in the plaint is premature, as the period of two years of desertion was not completed at the time of filing of the suit. Besides, the learned Family Court has observed that only because one of the grounds claimed in the said suit for divorce is considered to be premature, the plaint cannot be rejected under Order VII Rule 11 of the Code of Civil Procedure. These observations of the learned Family Court in para-37 of the impugned order is perfectly justified and no interference is required.

6. Apart from this, perusal of the plaint would go to show that specific cause of action has been mentioned with regard to the ground of cruelty and that has been considered by the learned Family Court in proper manner. Accordingly, no interference is warranted with the impugned order. The petition stands dismissed. No costs.

JUDGE