



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 293 OF 2014

Ashok Maharu Shinde,
Age : 27 Years, Occu. : Service,
R/o Moygaon, Tq. Jamner,
District Jalgaon.

... Appellant.

Versus

Sau. Shobhabai Ashok Shinde,
Age : 22 Years, Occu. : Household work,
R/o Shiwani, Tq. Bhadgaon,
District Jalgaon.

... Respondent.

...
Advocate for Appellant : Mr. Wani Girish V.
Advocate for Respondent : Mr. Nasim R. Shaikh.
...

CORAM : SHAILESH P. BRAHME, J.
DATE : 17.11.2025

ORAL JUDGMENT :-

1. Heard both sides.
2. By my previous order dated 30.09.2025, substantial questions of law were framed and it was indicated that matter would be decided finally instead of admitting it. In pursuance of my order, parties have tendered on record affidavit disclosing their financial position.
3. Both learned counsels advanced their submissions on the merits of the matter.

4. Appellant is the husband who had filed suit for dissolution of marriage on the ground of desertion and cruelty. He was successful before the Trial Court. But the respondent/wife challenged the decree and succeeded before the Lower Appellate Court. In this scenario, matter reached this Court.

5. The marriage was solemnized on 24.04.1992. They are separated since 1997. There are couple of proceedings filed between the parties. Since 1997, parties are leaving separate and they have no issue out of the wed lock. During the course of hearing, it is transpired that appellant contracted second marriage and has issues out of the wed lock.

6. Considering the longstanding separation between the parties, the ends of justice would be met in granting decree of dissolution of marriage. As irretrievable break down of marriage is apparent on the face of the record, a decree of dissolution can be passed. However, this Court cannot be oblivious of the fact that it would be domain of the Apex Court under Article 142 to pass decree in case of irretrievable break down of marriage.

7. In view of the law laid down by the Apex Court in the matter of ***Rakesh Raman Vs. Kavita [(2023) 17 Supreme Court Cases 433]***, the long standing separation has to be treated as cruelty under Section 13(1)(ia) of Hindu Marriage Act. Following are the relevant extracts :

“26. This Court (in Samar Ghosh) though did ultimately give certain illustrations of mental cruelty. Some of these are as follows: (Samar Ghosh ;case, SCC pp. 546-47, para 101)

“101. ... (i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(xii) Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.

(xiii) Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.

(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.

(emphasis supplied)”

“27. We have a married couple before us who have barely stayed together as a couple for four years and who have now been living separately for the last 25 years. There is no child from the wedlock. The matrimonial bond is completely broken and is beyond repair. We have no doubt that this relationship must end as its continuation is causing cruelty on both the sides. The long separation and absence of cohabitation and the complete breakdown of all meaningful bonds and the existing bitterness between the two, has to be read as cruelty Under Section 13(1) (ia) of the 1955 Act.”

“28. We therefore hold that in a given case, such as the one at hand, where the marital relationship has broken down irretrievably, where there is a long separation and absence of cohabitation (as in the present case for the last 25 years), with multiple Court cases between the parties; then continuation of such a “marriage” would only mean giving sanction to cruelty which each is inflicting on the other. We are also conscious of the fact that a dissolution of this marriage would affect only the two parties as there is no child out of the wedlock.”

8. I have gone through the affidavits filed by both parties. I have considered rival submissions for the claim of permanent alimony. Appellant is in service as a peon in the Office of Assistant Legal Metrology, Jalgaon. His salary slip is placed on record which indicates take home salary of Rs.41,002/- per month. It is submitted by learned counsel Mr. Wani that he has incurred three types of loans. He was required to spend for the medication of his mother, who is no more. Learned counsel has

adverted my attention to the documents filed along with the affidavits.

9. Per contra, learned counsel Mr. Shaikh would submit that respondent has to undergo dialysis because of failure of both kidneys. The certificate dated 17.09.2025 is placed on record. It is submitted that there is nobody to look after her except her brother. The financial condition is very precarious. It is submitted that she is entitled to Rs.10,00,000/- as permanent alimony.

10. Learned counsel for the appellant submits that it would not be possible for the appellant to spare the amount as claimed by the respondent. Considering the financial liabilities. He is ready to pay Rs.3,00,000/- to Rs.4,00,000/- towards the alimony.

11. It transpires that the respondent is awarded maintenance of Rs.800/- per month and appellant is paying the maintenance to the respondent. The medical certificate of the respondent discloses the seriousness of the ailment.

12. Considering the comparative financial status, I am of the considered view that the ends of justice would be met in

awarding permanent alimony of Rs.8,00,000/-. I, therefore, pass following order :

ORDER

- (i) Second appeal is allowed by granting decree of dissolution of marriage. The marriage between them stands dissolved.
- (ii) Appellant shall pay permanent alimony of Rs.8,00,000/- to the respondent. Out of that, initial installment of Rs.2,00,000/- shall be paid or deposited in the account of respondent within a period of four (4) weeks from today. Balance amount shall be paid within six (6) months from today.
- (iii) Decree be drawn up accordingly.

(SHAILESH P. BRAHME, J.)

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vmk/-