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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9208 OF 2024

Trupti Sagar Kadam

...Petitioner

Versus

Sagar Sahadev Kadam

...Respondent

None for Petitioner.

Mr. Sachin Mhatre a/w Diksha Shirodkar i/b. Mhatre Law Associates for
Respondent.

CORAM: AARTI SATHE, J.

DATE: 18th November 2025

P.C.

1. Today when the matter was called out, none appeared on behalf of the Petitioner. It is noted that even on the earlier occasion, none had appeared on behalf of the Petitioner. It therefore appears that the Petitioner has lost interest in prosecuting the aforesaid Petition and on this ground itself the Petition deserves to be dismissed.

2. Learned Counsel for the Respondent submitted that the Petitioner has filed a frivolous Petition and challenged a reasoned order passed by the Family Court, Bandra, Mumbai on the ground of non compliance of the mandatory provisions under Section 14 of the Hindu Marriage Act, 1955 and the same was dismissed on the ground that there are several decisions including the decision of this Court wherein it has been held that the mandatory period of one year from the date of marriage can be waived in cases of exceptional hardship.

3. The Family Court, Bandra has also relied upon a decision passed by this Court in **Mr. X Vs. Mrs. Y** decided on 24th November 2009. In the case of Mr. X Vs. Mrs. Y (supra), this Court has held as follows:-

"6. Before we part with this judgment, we must mention the other contention of the learned counsel for the appellant, where he submits that the petition for dissolution on the ground of cruelty has been presented before the expiry of one year from the date of marriage and was therefore untenable before the Trial Court due to the bar laid down in section 14 of the Hindu Marriage Act, 1956. The marriage took place on 17.4.1998 and the petition for divorce was presented on 20.2.1999. Section 14 of the Hindu Marriage Act reads as follows:

"14. No petition for divorce to be presented within one year of marriage. (1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, unless at the date of the presentation of the petition one year has elapsed since the date of the marriage:

Provided that the Court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented before one year has elapsed since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but, if it appears to the Court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the Court may, if it pronounces a decree, do so subject to the condition that the decree shall not have effect until after expiry of one year from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after expiration of the said one year upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of one year from the date of the marriage, the Court shall have regard to the interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said one year."

It is obvious from a bare reading of the section that the petition can be presented before the expiry of one year from the date of marriage, by obtaining leave of the Court. In any case, the proviso suggests that a decree obtained within one year on the basis of a defective bone, even one obtained by misrepresentation does not invalidate the decree ip so

facto; but the Court has a discretion to order that the decree shall become effective after a year. A defect in the nature of leave granted by the Court is a mere irregularity which the trial Court may not act upon. The appellate Court certainly has a wide discretion to refuse to interfere on such a ground. We, accordingly, refuse to go into the question whether the leave was properly granted at this stage of the proceedings. We note that in the present case, the Trial Court had indeed granted leave to the respondent to present the petition for divorce. According to the learned counsel for the appellant, the leave has not been granted in accordance with the law. Le. on considerations germane to the provision. We however find that that at no stage throughout the trial, or in the Memo of Appeal, has the appellant raised any ground pertaining to the correctness of the leave granted by the Court. Rather, the grounds raised by the appellant in the Memo of Appeal show that the appellant questioned the validity of the proceedings on the basis that no leave had been sought or granted. Only after it was pointed out that, in fact, the Court had granted leave, did the learned counsel for the appellant seek to contend that leave was not granted properly. The appellant did not at any stage of the trial, after receiving notice of the petition, raise any objection about the presentation of the petition within one year and that leave was not obtained. Obviously, no objection was raised because the appellant was aware of the order granting leave, and did not wish to object. It is clear that this objection is being raised at this stage only because the decision has gone against the appellant.

7. That apart, we find that the facts of the case, as found by the Family Court and upheld by us, justify the presentation of the petition before the expiry of one year from the date of marriage. It is true that Section 14 has been enacted with the object of discouraging young spouses from taking recourse to legal proceedings for divorce in a frivolous and irresponsible manner. However, the section provides two exceptions to this rule ie, where the petitioner faces exceptional hardship or exceptional depravity at the hands of the respondent. It is for the Learned Judge, who hears the application to decide as per the circumstances whether prima facie a case of exceptional hardship or depravity has been made out. The appellate Court will not interfere with the Trial Judge's discretion unless he has proceeded on a wrong principle of law, or failed to have regard to some material consideration or some gross injustice has occurred. [Meghanatha Nayagar v. Shrimati Susheela (AIR 1957 Mad 423)]. Further, Section 14 (2) requires that the Court, in such petition, ought to have regard to firstly, the interests of the children, if any, and secondly, of any possibility of reconciliation between the parties before the expiration of one year from the date of marriage. As is apparent, there was no possibility of reconciliation between the parties at any stage after the respondent left the matrimonial house, in view of the cruel treatment meted out to her. We have found that the behaviour of the appellant made cohabitation of the respondent with him impossible and therefore, no reconciliation was possible. As of now, it is clear that the

parties have not cohabited for a period of 12 years since the date on which the respondent left the appellant's company. We find that the behaviour of the appellant toward the respondent did indeed put her through exceptional hardship and left no scope for reconciliation. We hence find no merit in the argument of the respondent that the Trial Court had granted leave without justification.

8. In the result, we find that the judgment and order of the Learned Family Court is not liable to be interfered with and there is no merit in Family Court Appeal No.48 of 2006, which is hereby dismissed.”

4. Further, learned Counsel for the Respondent submits that the Petition filed before the Family Court is pending adjudication and has reached the evidence stage and the Petitioner wife has participated in the said proceedings and also filed written statement in those proceedings. The divorce proceedings are kept for marking of documents on 20th December 2025 before the Family Court.

3. In view of the above, and considering that the Petitioner has chosen not to appear before this Court to prosecute the matter, and has participated in the proceedings before the Family Court, coupled with the settled legal position regarding waiver of the mandatory one-year period under Section 14 of the Hindu Marriage Act, 1955, I see no reason to interfere with the order passed by the Family Court. The Petition is accordingly dismissed. No order as to costs.

(AARTI SATHE, J.)