



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

SECOND APPEAL NO.518 OF 2019

Dnyaneshwar S/o Pundlikrao Ingle .Vs. Sau. Pratibha Dnyaneshwar Ingle

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.P. Kariya, Advocate for appellant.

Mr. R.D. Dharmadhikari, Advocate for respondent.

CORAM : ROHIT W. JOSHI, J.

DATE : 15/09/2025

1. This Court vide order dated 03.12.2019, following substantial questions of law were framed in the present appeal and notice for final disposal was issued.

“(a) Whether both the Courts below erred in properly appreciating the term ‘cruelty’ as defined under Section 31[1][b] of the Hindu Marriage Act ?

(b) Whether both the Courts below have erred in appreciating the oral and documentary evidence on the point of cruelty and desertion, while arriving to the conclusion ?”

2. During the course of hearing of the appeal, it has transpired that some findings with respect to relationship of the husband with another woman and the husband parenting a child from another woman have weighed with the learned Courts in refusing to grant decree of divorce. The learned Court has considered this to be a valid ground for the wife to stay away from the husband.

3. The appellant/husband has filed Civil Application No.80 of 2024 seeking permission to lead additional evidence to demonstrate that the child in question is not his child. The contention is that although the name of child's father is mentioned as Dnyaneshwar in the birth certificate, the father is Dnyaneshwar Santosh Ingale and not Dnyaneshwar Pundlikrao Ingle (Appellant).

4. The learned Advocate for the respondent/wife submits that, the matter may be remitted to the learned trial Court for considering the evidence proposed to be brought on record by the appellant/husband. He, further, states that leave may be granted to both sides to amend the pleadings in view of the fact that a substantial period has lapsed since date of filing of the divorce petition. The learned Advocate for the appellant/husband has no objection for the same.

5. In view of the above, with consent of both the parties, both the judgments and decrees i.e. Regular Civil Appeal No.580 of 2018 and Hindu Marriage Petition No.302 of 2016, are quashed and set aside. The Hindu Marriage Petition No.302 of 2016 is remanded back to the file of learned Civil Judge Senior Division, Nagpur, for adjudication of the petition afresh.

6. Parties will be at liberty to amend the pleadings in order to clarify their stand with respect to pleadings

already on record and also in order to raise additional grounds, if they so desire. Parties will also be at liberty to lead further evidence in the matter. The learned trial Court to recast the issues, if found necessary.

7. Parties shall appear before the learned trial Court on **06.10.2025**. Parties to note that fresh notice/summons will not be issued by the learned trial Court.

8. Having regard to the fact that the divorce petition is of the year 2016, the learned trial Court shall make endeavour to decide the divorce petition expeditiously and preferably within a period of **one year** from the date of appearance of the parties.

(ROHIT W. JOSHI, J.)