IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 FIRST APPEAL NO. 4250 OF 2017

MURLIDHAR BHIVSAN NARKHEDE
VERSUS
RAJANI MURLIDHAR NARKHEDE
...
Mr. S. S. Kulkarni, Advocate for Appellant
Mr. S. B. Joshi, Advocate for Respondent
...

CORAM : AJIT B. KADETHANKAR, J.
DATED : 14th October 2026

P.C. :-

. At the instance of the parties, the First Appeal is taken up for final disposal at the admission stage considering the short controversy involved in the matter.

2. The appellant takes exception to the judgment and decree dated 17.02.2009 passed by the learned District Judge-4, Jalna in Hindu Marriage Petition No. 85 of 2008. The said proceedings were filed by the respondent-wife under Section 13 of the Hindu Marriage Act seeking a decree of divorce on the ground of cruelty.

3. Mr. S. S. Kulkarni, learned Advocate for the appellant submits that the only objection in the appeal is that the

appellant was deprived of a sufficient opportunity to adduce evidence. In this regard, he would submit that on two occasions, the appellant could not adduce evidence when called upon by the Court, and thereafter, the matter was heard for final disposal and was finally decided by the learned District Judge.

4. Mr. S. B. Joshi, learned Advocate for the respondent would support the findings rendered by the Trial Court. He would submit that the fact speaks itself. So far as the opportunity of hearing is concerned, it is submitted that it is not the case that the Court *suo motu* forfeited the appellant's right to adduce evidence for the reason that, on more than one occasion, the appellant did not adduce evidence. The Trial Court was justified in proceeding further. With this, Mr. Joshi concludes his arguments and prays for dismissal of the appeal.

5. I have heard both the learned Advocates for the respective parties at length.

6. The facts in the matter are not disputed by either parties. The relationship between the parties is admitted and accepted by both the learned Advocates. The appellant is bold enough to contend that since the respondent could not

conceive a child, he performed a second marriage. However, it is his contention that the second marriage was performed with the permission of the respondent-wife.

7. It is further contended by the appellant that since the second marriage was performed pursuant to an arrangement made with the consent of the respondent-wife, the same cannot be termed as cruelty for which the respondent would be entitled to seek recourse under Section 13 of the Hindu Marriage Act.

8. The Trial Court, while recording its findings has specifically observed that there was nothing on record to show that the wife i.e., the respondent had given her free consent to the second marriage of the appellant. In view of this finding, the contention of the appellant that the second marriage could not be termed as cruelty cannot be accepted.

9. So far as the appellant's objection regarding the alleged denial of a proper opportunity of hearing is concerned, it is not disputed that the appellant was called upon to adduce evidence on more than one occasion. Apparently, the appellant did not opt to adduce such evidence on the occasions given. Thereafter, he argued the matter, and the

Trial Court proceeded to decree the petition.

10. I find that the appellant was not deprived of an opportunity of hearing at the hands of the Trial Court. The findings recorded by the Trial Court are well reasoned, and I am of the considered view that they do not call for interference in the present First Appeal.

11. Resultantly, the First Appeal stands dismissed.

(AJIT B. KADETHANKAR, J.)

PRW