Salgaonkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO.70 OF 2025

WITH

INTERIM APPLICATION NO.9533 OF 2025

Supriya Gaurav Devare nee Supriya Raosaheb Patil .. Appellant

Versus

Gaurav Jitendra Patil .. Respondent

...

Mr.Shubham S. Sane for the Appellant.

Mr.Sanjay P. Shinde with Mr.Prathmesh T. Bhanuwanshe for the Respondent.

CORAM: BHARATI DANGRE & MANJUSHA DESHPANDE, JJ.

DATE : 27th FEBRUARY, 2026

...

P.C:-

1. Heard the respective parties.

2. The Appellant is challenging the ex-parte order passed by the Family Court, Nashik in Petition No.A-185 of 2024, whereby the petition filed under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 for divorce has been allowed vide Judgment & Order dated 27/05/2025.

3. The learned counsel for the Appellant has pointed out that this order has been passed ex-parte by the Court and the

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HIGH COURT OF JUDICATURE AT BOMBAY

only ground, which has been stated by the learned Judge while allowing the petition for divorce, is WhatsApp chat, which is relied upon to prove that there is cruelty at the hands of the Respondent-Wife and the pertinent observations read thus :-

> "7. The unchallenged testimony of the petitioner is supported by WhatsApp Chat and SMS chat between the parties. The Chat clearly show insistence on the part of the respondent-wife to migrate to Pune rather than stay at Nashik Dist.Nashik. Some of the Chat show derogatory messages used for sister in law, mother in law by the respondent. A wife, telling husband that whether your sister will role play as his wife, is a serious mental cruelty upon the husband. Similarly, a wife who is well aware about the place of matrimonial home and insists the husband to shift at Pune by leaving his parents at Nashik, by using derogatory language, commits mental cruelty. I think that the respondent disillusioned by the fact that her husband though working in Nashik in a company at Pune in work from home mode, refused to accept her demand of migrating to Pune. Dist. Pune, has started using pressure tactics, emotional black mail and intemperate language against husband and in laws, subjected every one to mental cruelty. A wife cannot use such pressure tactics, therefore, the petitioner is not supposed to live with the respondent. Hence, the petitioner is entitled for divorce. Therefore, I record my finding to point Nos. 1 and 2 in the affirmative."

4. Upon perusal of the aforesaid observations, it is apparent that the testimony of the Petitioner-Husband is stated to be supported by WhatsApp Chat and messages between the parties. There is no opportunity given to rebut the said evidence by the wife. Relying on the aforesaid observations, the cruelty is held to be proved against the husband, at the hands of the wife. Accordingly holding that, husband needs to be granted decree of divorce on the ground of cruelty. Merely relying on the WhatsApp Chat, the divorce decree cannot be

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HIGH COURT OF JUDICATURE AT BOMBAY

granted, since it is not proved by leading evidence. Therefore, according to us, the Judgment & Decree of Divorce needs to be set aside by remanding the matter back to the Family Court, by granting opportunity to the Appellant-Wife to be heard and liberty to lead evidence.

Accordingly, we set aside the Judgment & Order dated 27/05/2025 passed by the Family Court, Nashik in Petition No.-185 of 2024.

The matter is remanded back for determination of all the issues raised in the petition by leading evidence.

5. In the meanwhile, as suggested by the learned counsel for the Respondent, parties are at liberty to explore the possibility of settlement through Mediation.

6. The Family Court Appeal stands disposed of alongwith the pending Interim Application.

(MANJUSHA DESHPANDE, J.) **(BHARATI DANGRE, J.)**

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