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**IN THE HIGH COURT OF BOMBAY AT GOA.**

**SECOND APPEAL NO. 35 OF 2026**

Mrs. Sheetal Satish Sawant Age 36, Occupation homemaker, R/o H NO. 493, Ashvem, Mandrem, Pernem, Goa, **…APPELLANT**

**~ VERSUS ~**

Mr. Satish Gunaji Sawant Age 39, Occupation police driver, R/o H no. 498, Ashvem, Mandrem, Pernem, Goa, **…RESPONDENT**

**APPEARANCES:**

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| **for the Appellant.** | ***Ms Apeksha Kalokhe and Ms Ashwini Bandekar, Advocates.*** |
| **for the Respondent** | ***Mr Vibhav Amonkar, Advocate.*** |

**CORAM : AMIT S. JAMSANDEKAR, J.**

**Dated : 23rd April, 2026.**

**JUDGMENT**

1. Heard learned counsel for the Appellant.

2. By way of the present appeal, the Appellant has challenged the order passed by the learned Principal District and Sessions Judge, North Goa at Panaji, whereby the learned District Judge dismissed the appeal filed by the Appellant against the judgment and order dated 17.6.2023 passed by the Court of Civil Judge, Senior Division "A" Court at Mapusa. The proceedings arise under Articles 4 and 5 of the law of divorce.

3. The matrimonial suit was instituted by the Respondent seeking cancellation of the civil marriage between the Appellant and the Respondent.

4. The parties shall be referred to in accordance with their status before the trial Court.

5. Learned counsel for the Respondent has sought framing of a substantial question of law.

6. Learned counsel for the Petitioner has opposed the second appeal on the ground that, in view of concurrent findings of fact, no substantial question of law arises. In support of his submissions, Mr. Amonkar relied upon the judgment in the case of ***Chandrabhan(Deceased) Through Legal Representatives and others Vs Saraswati and others, (2022)20 SCC 199*** and submitted that, considering the facts and circumstances of the case, and in

view of concurrent findings against the Respondent, no substantial question of law would arise in light of the guidelines laid down by the Hon'ble Supreme Court in paragraphs 30 and 31 which read thus:-

> ***30.*** *The proper test for determining whether a question of law raised in the case is substantial would be, whether it is of general public importance or whether it directly and substantially affects the rights of the parties and if so, whether it is either an open question in the sense that it is not finally settled by this Court. If the question is settled by the highest court or the general principles to be applied in determining the question are well settled and there is a mere question of applying those principles or the question raised is palpably absurd, the question would not be a substantial question of law.*
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> ***31.*** *To be "substantial", a question of law must be debatable, not previously settled by law of the land or a binding precedent, and must have a material bearing on the decision of the case, if answered either way, insofar as the rights of the parties before it are concerned. To be a question of law "involving in the case" there must be first, a foundation for it laid in the pleadings and the question should emerge from the sustainable findings of fact arrived at by court of facts and it must be necessary to decide that question of law for a just and proper decision of the case. An entirely new point raised for the first time before the High Court is not a question involved in the case unless it goes to the*

*root of the matter. It will, therefore, depend on the facts and circumstances of each case whether a question of law is a substantial one and involved in the case or not, the paramount overall consideration being the need for striking a judicious balance between the indispensable obligation to do justice at all stages and impelling necessity of avoiding prolongation in the life of any lis. (See Santosh Hazari v. Purushottam Tiwari [Santosh Hazari v. Purushottam Tiwari, (2001) 3 SCC 179] .)*

7. It is, however, contended that there is a gross violation of the principles of natural justice. It is submitted that the judgment in the case of ***Chandrabhan (Deceased) Through Legal Representatives***(supra) has general public importance and ought to be considered in the present proceedings, particularly in the context of matrimonial disputes. I find merit in the submission of learned counsel for the Respondent that if there is a breach of the principles of natural justice, a substantial question of law would arise.

8. Upon perusal of the record, in particular the roznama of the trial Court, I am of the view that the appeal deserves to be admitted.

9. The appeal is admitted on the following substantial question of law:-

(a). Whether the Courts below erred in law in conducting the trial in a manner resulting in violation of the principles of natural justice, thereby vitiating the impugned judgment and decree?

10. Mr. Amonkar, learned counsel, waives notice for the Petitioner (Respondent herein).

11. Upon perusal of the record, I find that the trial Court has proceeded in a hyper-technical and mechanical manner in conducting the trial for cancellation of marriage between the parties.

12. The reasons are as follows:

(i) When the matter was listed on 22.12.2022, the Advocate appearing for the Respondent sought discharge on the ground that the Respondent had taken back her file. This fact is recorded in the roznama dated 22.12.2022. Despite recording the said fact, the trial Court proceeded on the very same day to record the deposition of PW1, which was completed on that day itself. Various documents were also marked during examination-in-chief. The roznama records that an opportunity was granted to the Respondent to cross-examine PW1, and the matter was adjourned to 31.12.2022.

(ii) On 31.12.2022, none appeared before the Court, and the matter was adjourned to 24.01.2023. On 24.01.2023, the

roznama records that "Respondent proceeds ex parte." On the same day, the trial Court recorded the depositions of PW2 and PW3 and closed the evidence of the Petitioner. Thus, immediately on the next effective date, the opportunity earlier granted to cross-examine PW1 stood effectively closed.

(iii) The matter was next listed on 16.02.2023, when the Respondent appeared in person and filed an application for setting aside the ex parte order dated 24.01.2023 (Exh. D-26). Despite the said application being on record, the trial Court proceeded to fix the matter for final arguments and recorded that "final arguments are advance by Adv. J. Fernandes."

(iv) On subsequent dates, including 04.03.2023 and 20.03.2023, the matter was adjourned due to administrative reasons. On 27.03.2023, reply to Exh. 26 was filed and vakalatnama of a newly appointed Advocate for the Respondent was taken on record.

(v) On 25.04.2023, the roznama records that the Advocate for the Petitioner had already advanced final arguments, and the Advocate for the Respondent sought time to advance arguments on Exh. 26. On 01.05.2023, the trial Court allowed

the application, set aside the ex parte order, and granted an opportunity to the Respondent to advance final arguments.

(vi) Thereafter, the matter was listed on 05.06.2023 and 17.06.2023, on which date the judgment was pronounced. A cumulative reading of the roznama clearly reflects that the matter proceeded ex parte at a crucial stage, and the Respondent was effectively denied an opportunity to cross-examine PW1, PW2, and PW3.

13. When the trial Court was aware that the Respondent was not represented by a lawyer, there was no justification to record the deposition of PW1 on the same day. Further, after only one adjournment, the trial Court proceeded to record the depositions of PW2 and PW3 and declared the proceedings ex parte.

14. More importantly, even during the pendency of the application for setting aside the ex parte order, the trial Court proceeded with final arguments. This approach clearly deprived the Respondent of an effective opportunity to participate in the proceedings.

15. The trial Court has thus adopted a mechanical approach, which is impermissible, particularly in matrimonial disputes. The Respondent ought to have been granted an opportunity to cross-

examine the witnesses of the Petitioner, followed by a meaningful opportunity to hear.

16. A perusal of the impugned judgment further reveals that the trial Court has merely reproduced the pleadings and evidence of the Petitioner without assigning independent reasons. The absence of reasoning is attributable to the lack of cross-examination and participation by the Respondent.

17. I, therefore, find that there is a gross violation of the principles of natural justice.

18. Accordingly, the following order is passed:

**ORDER**

(i) The Appeal is allowed.

(ii) The impugned judgment and order dated 17.6.2023 passed by the trial Court is quashed and set aside.

(iii) The matter is remanded to the trial Court for granting an opportunity to the Respondent to cross-examine PW1, PW2, and PW3.

(iv) Upon completion of cross-examination, the trial Court shall hear final arguments of both parties and dispose of the matter afresh, in accordance with law.

(v) The entire exercise shall be completed within a period of six months from today.

(vi) It is made clear that the Respondent shall not seek adjournments on any ground. If the Respondent intends to appoint a new Advocate, the same shall be done within a period of two days from today.

(vii) The Respondent shall not be entitled to rely upon any documents, except for the purpose of confronting witnesses during cross-examination.

(viii) The Second Appeal stands disposed of in the above terms. No order as to costs.

19. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on the production by fax or email of a digitally signed copy of this order.

**[AMIT S. JAMSANDEKAR, J.]**