


MHJN020007322024 	Presented on : 18.04.2024 Registered on : 18.04.2024 Decided on : 30.03.2026 Duration : 01 11 12 Y M D
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**IN THE COURT OF 2nd JT. CIVIL JUDGE SENIOR DIVISION AT
JALNA, DIST- JALNA.**

(Presided over by Priti D. Taru)

Marriage Petition No.41/2024

Exh. No.:- 13

Raju Devichand Shirbhaye,

Age :- 36 years, Occup. :- Labourer,

R/o. Ambhora Jahagir, Tq. Mantha, Dist. Jalna.

...Petitioner.

VERSUS

Sunita Raju Shirbhaye,

Age:- 32 years, Occup.:- Labourer,

R/o. Ambhora Jahagir, Tq. Mantha, Dist. Jalna

present R/o. through Ramchandra Narayan

Gahire New L.I.C Sahvas Nagar, Gadkari Chowk

Nashik, Tq. & Dist. Nashik.

...Respondent.

.....
For Petitioner :- Mr. G. B. Solanke, Learned Advocate for Petitioner.
For Respondent :- Ex-parte
.....

JUDGMENT

(Delivered on day of 30th March, 2026)

This is a petition under Section 9 of the Hindu Marriage Act, 1955 (in short 'H.M. Act'), for Restitution of Conjugal Rights.

Petitioner's case in brief:

2] Petitioner married to respondent in 2007 at Nashik, as per Hindu customs and Rites. Out of this wedlock, they have a daughter namely Priyanka born in 2011 and a son namely Prem born in 2013. After marriage, respondent went to co-habit with the petitioner at matrimonial house. Petitioner and respondent resided together for a short period. Respondent was not interested in marital life. Respondent used to left the company of the petitioner by visiting her parental home frequent.

3] Petitioner contended that, during her stay at matrimonial house, respondent caused physical and mental harassment to the parents of the petitioner by quarreling and demanding separate residence. To accomplish the demand of respondent, petitioner made arrangement for separate residence but, respondent failed to behave properly. Respondent further demanded shifting to her parental house at Nashik. Again, petitioner fulfilled her demand. Respondent gave insulting treatment to the petitioner. Respondent failed to show improvement in her behavior.

4] Petitioner further contended that, it is in June-2022 respondent left the matrimonial house alongwith two minor children without intimation to the petitioner. She had taken away gold and silver ornaments. Petitioner approached the parental house of the respondent, wherein she refused to resume co-habitation with petitioner and insulted him. Respondent demanded divorce to the petitioner. However, in 2023 on the occasion of Pola festival, respondent returned to the matrimonial house and co-habited with petitioner for two to three months. Thereafter, respondent left the

matrimonial house and failed to turn back.

5] Petitioner further contended that, inspite of physical and mental harassment on the part of respondent, he is willing to cohabit with respondent. It is for the care and parenting to minor children, who are residing with the old aged parents of the petitioner, the petitioner is in need of company of respondent. It is in view of genuine efforts of the restitution, petitioner issued legal notice dated 22/03/2024. Respondent refused the notice. As such, respondent failed to resumed cohabitation. Hence, this petition for restitution of conjugal rights.

6] Respondent though duly served with notice but failed to appear. Petition proceeded 'ex-parte' against respondent by order dated 02/09/2025 vide Exh.01.

7] Petitioner adduced evidence.

8] Heard Mr. G. B. Solanke, the learned advocate for Petitioner.

9] After hearing and on the basis of pleading, following points arise for determination and I have recorded my findings against each of them for the reasons discussed below:

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the petitioner does prove that, the respondent has without reasonable excuse, withdrawn from his society ?	Yes.

- | | | |
|----|---|----------------------|
| 2. | Whether the respondent does prove that, there was reasonable excuse on her part for withdrawal from the society of petitioner ? | No. |
| 3. | Whether the petitioner is entitled to decree for Restitution of Conjugal Rights ? | Yes. |
| 4. | What order and decree ? | Petition is allowed. |

REASONS

As To Point No.1 :-

10] Petitioner adduced evidence on affidavit (Exh.09). Petitioner relied upon Legal Notice dated 22/03/2024 (Exh.10) & Closed Envelop with Endorsement (Exh.11).

11] Petitioner has stated that, he married to respondent in 2007 at Nashik, as per Hindu customs and Rites. Out of this wedlock, they have a daughter namely Priyanka born in 2011 and a son namely Prem born in 2013. After marriage, respondent went to co-habit with the petitioner at matrimonial house. Petitioner and respondent resided together for a short period. Respondent was not interested in marital life. Respondent used to left the company of the petitioner by visiting her parental home frequent.

12] Petitioner stated that, during her stay at matrimonial house, respondent caused physical and mental harassment to the parents of the petitioner by quarreling and demanding separate residence. To accomplish the demand of respondent, petitioner made arrangement for separate residence but, respondent failed to behave properly. Respondent further demanded shifting to her parental

house at Nashik. Again, petitioner fulfilled her demand. Respondent gave insulting treatment to the petitioner. Respondent failed to show improvement in her behavior.

13] Petitioner further stated that, it is in June-2022 respondent left the matrimonial house alongwith two minor children without intimation to the petitioner. She had taken away gold and silver ornaments. Petitioner approached the parental house of the respondent, wherein she refused to resume co-habitation with petitioner and insulted him. Respondent demanded divorce to the petitioner. However, in 2023 on the occasion of Pola festival, respondent returned to the matrimonial house and co-habited with petitioner for two to three months. Thereafter, respondent left the matrimonial house and failed to turn back.

14] Petitioner further stated that, inspite of physical and mental harassment on the part of respondent, he is willing to cohabit with respondent. It is for the care and parenting to minor children, who are residing with the old aged parents of the petitioner, the petitioner is in need of company of respondent. It is in view of genuine efforts of the restitution, petitioner issued legal notice dated 22/03/2024. Respondent refused the notice. As such, respondent failed to resumed cohabitation. Hence, this petition for restitution of conjugal rights.

15] Evidence of petitioner remained unchallenged. The contents of Main Application(Exh.01) stands proved by evidence of petitioner. Respondent failed to contest the matter. It appears from the oral and documentary evidence on record that, the petitioner

succeeded in proving that, respondent has without any reasonable cause withdrawn herself from the society of petitioner. For all the aforementioned reasons, I have answered Point No.1 in affirmative and recorded my finding accordingly.

As To Point No. 2 :-

16] Respondent failed to appear and contest the matter. As per Explanation Clause to Section 9 of Hindu Marriage Act, where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society. The said burden of proof is not discharged by the respondent. Thus, in view of affirmative finding as to Point No.1, I have answered Point No.2 in Negative and recorded my finding accordingly.

As To Point No.3 :-

17] In view of affirmative finding as to Point No.1, petitioner is entitled to the decree for restitution of conjugal right. For this reason, I have answered Point No.3 in affirmative and recorded my finding accordingly.

As To Point No.4 :-

18] In the result following order is passed :-

ORDER

- 1] Petition(Exh.01) is allowed.
- 2] Respondent shall resume cohabitation within

two months from the date of decree.

3] Decree be drawn up accordingly.

Date:- 30/03/2026

(Smt. Priti D. Taru)
2nd Jt. Civil Judge (Sr. Dn.),
Jalna.

CERTIFICATE

I affirmed that the contents of this [P.D.F.](#) file judgment are same, word to word, as per the original judgment.

Name of the Stenographer : Amar R. Gadade, Stenographer (Grade-III)

Court : 2nd Jt. CJSD, Jalna, Dist. Jalna.

Date : 30/03/2026

Judgment signed by the
presiding officer on : 30/03/2026

Judgment uploaded on : 30/03/2026