

MHWS100013002024



Received On : 30.08.2024.

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Decided On : 09.04.2026.

Duration : Years Months Days

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IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION, MALEGAON,
TAL. MALEGAON, DIST. WASHIM.
(Presided over by A. S. Koshti)

Regular Civil Suit No. 43/2024.
Exhibit No. 16

Mohammad Mukaddar Mohammad Hanif }
Age : 42 years, }
At. at village Nichvas Shirpur, Tq. Malegaon }
District Washim. }

...The Plaintiff.

VERSUS

Almas Mohammad Mukaddar }
Age : 31 Yrs. Occu. Household }
R/o. At pre. Sk. Husen Sk. Hidayat, }
R/o. Lohiya Nagar, Galli No.1, }
54 BP, Near Chuni Police Chowk, }
Bhavani Peth, Pune, Tq. & District Pune. }

...The Defendants.

SUIT FOR RESTITUTION OF CONJUGAL RIGHT

Appearances :

Learned Adv. I.M.Sayyad, for the plaintiff,
Suit is proceeded Ex-parte against the defendant.

JUDGMENT

[Delivered on this 09th April, 2026]

This is a suit for Restitution of Conjugal Rights.

Brief Facts of the plaint :-

The marriage between the plaintiff and the defendant was solemnized in May 2009 at Pune as per Muslim customs and traditions. After marriage, the defendant resided with the plaintiff at Shirpur for about 5 to 6 months and their marital life was cordial during that period. Out of the wedlock, they have three children - one daughter named Masira and two sons named Sofiyan and Adnan.

02. Thereafter, the defendant started insisting that the plaintiff should leave his mother and shift to Pune, which led to frequent disputes between them. In the year 2012, as per the insistence of the defendant, the plaintiff shifted to Pune and started residing near the defendant's parental house. During their stay in Pune, the plaintiff was working as an electrical fitter and the family life was running smoothly.

03. However, after a few months, the behavior of the defendant changed and she started behaving rudely and picking quarrels with the plaintiff over trivial issues. The plaintiff tolerated such behavior in order to maintain a peaceful matrimonial life. The plaintiff later came to know that the defendant was acting under the influence of her mother Mumtaz and her three maternal aunts. Despite repeated efforts by the plaintiff to convince the defendant not to ruin their marital life under external influence, there was no change in her behavior.

04. In April 2024, the plaintiff's mother suddenly fell seriously ill, due to which the plaintiff had to return to Shirpur. The plaintiff's mother is aged and frequently ill, and there is no one except the plaintiff to take care of her. The plaintiff informed the defendant about this situation and requested her to come and reside with him at Shirpur, explaining that he could not leave his aged mother alone. However, the

defendant clearly refused to reside with the plaintiff at Shirpur.

05. Thereafter, on 07.07.2024, the plaintiff went to Pune to bring the defendant back, but the defendant, along with her mother and three maternal aunts, quarreled with him, abused him in filthy language, and refused to return. The defendant also insulted the plaintiff and drove him out of the house.

06. Despite several efforts made by the plaintiff to bring her back, the defendant has refused to cohabit. Hence, the plaintiff has been constrained to file the present suit.

07. The Defendant has failed to enter appearance. Hence the suit is proceeded *Ex-parte* against her.

08. The points that arise for determination alongwith my findings thereon for the reasons to follow are as under :-

NO.	POINTS	FINDINGS
1.	Whether the plaintiff proves that the defendant without reasonable excuse has withdrawn from his society ?	Yes.
2.	Whether the plaintiff is entitled to the relief prayed for ?	Yes
3.	What Order ?	As per final order

REASONS

AS TO POINT NOS.1 TO 2 :-

09. The present suit is filed by the plaintiff seeking restitution of conjugal rights against the defendant under Mohammedan Law. At the outset, it is necessary to address the issue of jurisdiction of this Court.

10. It is an admitted position that there is no Family Court

established for Taluka Malegaon, District Washim under the provisions of the Family Courts Act, 1984. In such circumstances, the question arises whether a Civil Court (Junior Division) can entertain and decide a suit for restitution of conjugal rights.

11. Section 7 of the Family Courts Act, 1984 confers exclusive jurisdiction upon Family Courts in respect of suits relating to matrimonial reliefs, including restitution of conjugal rights. However, such exclusion of jurisdiction of Civil Courts operates only where a Family Court is established for the concerned area.

12. In absence of establishment of a Family Court, the ordinary Civil Courts continue to exercise jurisdiction over such matters. Therefore, this Court, being a Court of Civil Judge, Junior Division, is competent to try and decide the present suit.

13. Further, the plaintiff has rightly relied upon the judgment of the Privy Council in the case of *Moonshee Buzloor Ruheem v. Shumsoonnissa Begum*, wherein it has been held that a suit for restitution of conjugal rights is maintainable at the instance of a Mohammedan husband in a Civil Court for enforcement of marital rights.

14. Thus, both under Mohammedan personal law and general civil law principles, such a suit is maintainable before a Civil Court in absence of a Family Court.

15. Accordingly, this Court holds that it has proper jurisdiction to entertain, try and decide the present suit.

16. The suit has proceeded *Ex-parte* against the defendant. The evidence of the plaintiff Exh. 9 and his witness, namely Shaikh Mujahid Abdul Rashid at Exh.12, has remained unchallenged and unrebutted.

From the un rebutted testimony, it stands proved that :

- (a) The marriage between the parties is valid and subsisting.
- (b) The defendant has withdrawn from the society of the plaintiff.
- (c) Such withdrawal is without reasonable cause.
- (d) The plaintiff has made sincere efforts to resume cohabitation, which were refused by the defendant.

17. There is nothing on record to disbelieve the testimony of the plaintiff. In absence of any rebuttal, the evidence inspires confidence and is sufficient to establish the case.

18. Under Mohammedan Law, the husband is entitled to seek restitution of conjugal rights when the wife withdraws from his society without lawful justification.

In view of the above discussion, this Court is satisfied that:

- (a) It has jurisdiction to entertain the present suit.
- (b) The plaintiff has successfully proved his case.
- (c) The defendant has withdrawn from the society of the plaintiff without reasonable cause.

19. Therefore, point Nos.1 and 2 is answered in affirmative. The plaintiff is entitled to a decree for restitution of conjugal rights. Hence, I pass the following order ;-

:- ORDER :-

- 01. The suit is decreed with costs.
- 02. The defendant is hereby directed to resume cohabitation with the plaintiff and perform her marital obligations.
- 03. Decree be drawn accordingly.
(Dictated and pronounced in the open court)

Place : Malegaon.
Date : 09.04.2026.

[A. S. Koshti]
Jt. Civil Judge (JD), Malegaon.
Dist. Washim.

<u>CERTIFICATE</u>		
I affirm that, contents of this PDF file is same word to word, as per original Judgment :-		
1. Name of the Stenographer	:-	Shivam B. Patange (L.G.)
2. Court Name	:-	Jt. C.J.J.D. & J.M.F.C., Malegaon
3. Judgment dated	:-	09.04.2026.
3. Judgment Signed by the PO.	:-	09.04.2026.
4. Judgment uploaded on	:-	09.04.2026.