

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APPEAL FROM ORDER NO. 114 OF 2014

Dr. Pankaj S/o Padmakarrao Joshi
Age: 33 years, Occu: Medical Practice
at Present R/o Bahrin (Gulf Country)
Through his father

Mr. Padmakar S/o Kishanrao Joshi,
Age: 63 years, occu. Service,
R/o Babhalgaon, Tq. And Dist. Latur,
At present R/o Balaji Nagar,
Aurangabad.

...Appellant

versus

Dr. Puja W/o Pankaj Joshi,
Age: 29 years, Occu. Medical Practice,
R/o Gokul Ashirwad Colony,
Keshav Nagar Akola Ta. And Dist.
Akola

...Respondent

.....
Mr. Girish N. Kulkarni (Mardikar), Advocate for Appellant
.....

CORAM : A.I.S. CHEEMA, J.

DATED : 30TH JANUARY, 2015

Order :-

1. Heard learned counsel for the appellant.
2. The trial court has returned the petition under section 10 of the Hindu Marriage Act, 1955, for presenting the same before proper and competent court of law.

3. Learned counsel for applicant submits that trial court did not take into consideration section 19 (iii) of Hindu Marriage Act, while passing the order. Relying on the judgment in the case of **Meena Anilkumar Walambe Vs. Anilkumar Govind Walambe** reported in **1992 Law Suit (Bomb.)45**, learned counsel submits that this court had considered the judgment in the case of **Jagir Kaur Vs. Jawant Singh** reported in **AIR 1963 S.C. 1521** to deal with situation, wherein couple last resided outside the India, and it was held that question of "last resided" has to be in the context of where couple last resided in territories of India.

4. I have gone through the petition, which was filed before the trial Court. The marriage took place at Akola. The petition does not mention that after marriage, the couple stayed at Babhalgaon, Taluqa and District Latur. It rather mentions that after marriage the wife stayed at Pune to complete the study and thereafter went to Bahrain. Paragraph No. 7 of the petition shows that from Bahrain, wife came to India and it is claimed, at present, she is residing at Akola. The petition nowhere spells out where the

couple last resided together in territories of India. Paragraph No. 4 vaguely refers to the fact that wife completed study at Pune, without mentioning that husband was staying with her that time at Pune.

5. In this situation, Section 19(i) of the Hindu Marriage Act, which speaks of place where the marriage was solemnized or sub-section(ii) where the respondent, at the time of presentation of the petition is residing, would be relevant. The petitioner himself appears to be still residing at Bahrain, however, the petition was tendered in Court at Latur. The trial Court referred to ration card having name of petitioner and voter list and observed that even if permanent address of petitioner was of Latur, still at present petitioner or respondent none was residing in jurisdiction of the court. I do not find that there is any case made out.

6. As such, admission of the appeal is declined.

(A.I.S. CHEEMA, J.)