

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.591 OF 2016

Shri. Narayan Madhav Shirsikar

**..Petitioner
(Orig. Respondent)**

Versus

Mrs. Nilima Narayan Shirsikar

**..Respondent
(Org. Petitioner)**

Mr. A. S. Rao for the Petitioner.

CORAM : R. M. SAVANT, J.

DATE : 19th DECEMBER, 2016

PC.

1 The revisionary jurisdiction of this Court is invoked against the order dated 20.09.2016 passed by the Learned 3rd Joint Civil Judge Senior Division, Kalyan, by which order, the application Exh.14 filed by the Petitioner came to be rejected. The said application Exh.14 was filed by the Petitioner raising a preliminary issue as regards the jurisdiction of the 3rd Joint Civil Judge Senior Division, Kalyan, to try Marriage Petition No.1300 of 2015 filed by the Respondent wife for divorce.

2 The objection to the jurisdiction was taken on the ground that the marriage between the Petitioner and Respondent was solemnized in Goa and therefore it is the Portuguese Civil Code which would be applicable and having regard to the same, it would be only the Courts in

Goa which would have jurisdiction. The said application has been rejected inter-alia on the ground that Section 9A could not have been invoked in view of the fact that no application for interim relief has been filed by the Respondent wife. In so far as framing of a issue relating to jurisdiction under Order XIV Rule 2 of the Code of Civil Procedure (For short "CPC") is concerned, the Trial Court held that the stage for framing such an issue has not been arrived at as yet and therefore the application even under Order XIV Rule 2 is premature.

3 In my view, having regard to the reasons mentioned in the impugned order, no case for exercise of the revisionary jurisdiction of this Court is made out. The Civil Revision Application is accordingly dismissed.

4 However, it would be open for the Petitioner to file an application for framing of an issue relating to the jurisdiction of the Court in Kalyan for trying the Marriage Petition under Order XIV Rule 2 of the CPC at the appropriate stage. If any such application is filed, needless to state that the same would be tried on its own merits and in accordance with law.

[R.M.SAVANT, J]