

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

WRIT PETITION STAMP NO.34873 OF 2016

Prakash Ganpatrao Nikam : Petitioner.
versus
Sou.Sujata Prakash Nikam : Respondent.

Mr. A A Deshmukh for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 14th March 2017

P.C.

1 The order dated 27/10/2016 passed by the learned 12th Joint Civil Judge, Senior Division, Pune rejecting the application filed by the Petitioner husband referable to Section 9A of the Code of Civil Procedure Code is taken exception to by way of the above Petition.

2 The Petitioner husband and the Respondent wife had filed a Petition for seeking divorce by mutual consent. The said Petition has been pending since 2015. The Respondent wife withdrew her consent and there upon the Petitioner husband wanted to withdraw the Petition itself. It seems that the Respondent wife has filed an application under Section 26 for custody of the children and for interim custody during Diwali Vacation of the year 2016. It is upon the said application that the Petitioner husband has filed the instant application raising the issue of jurisdiction of the concerned Court. The said application has been rejected by the Trial Court on the ground that the

said application has been filed long after the Petition for divorce has been filed and is pending. The Trial Court has also referred to the fact of withdrawal of the consent by the Respondent wife and the application filed by the Petitioner husband for withdrawal of the Petition for divorce to file a Petition afresh on such grounds as are available in law.

3 In my view, having regard to the facts which have weighed with the Trial Court in passing the impugned order, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]