

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4482 of 2018

Sou. Savita w/o Jitendra Banwakde

vs.

Shri Jitendra s/o Vinayak Banwakde

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri P.H. Khobragade, Advocate for the Petitioner.

CORAM : S.B. SHUKRE, J.

DATE : 25th JULY, 2018.

Heard the learned Counsel for the petitioner.

In the previous petition, admittedly, there was no issue framed regarding entitlement of the respondent to seek a decree of restitution of conjugal rights and, therefore, the new filing under Section 9 of the Hindu Marriage Act would not be hit by the principle of *res judicata*. It is true that initially, the petition was filed under Section 9 of the Hindu Marriage Act, but later on, with the permission of the Court, it was converted into the petition for divorce under Section 13(1) of the Hindu Marriage Act. So, the issues, that were framed and adjudicated upon, were in relation to the right of the respondent to seek divorce on the grounds stated in the petition and not relating to his right to seek decree of restitution of conjugal rights.

In these circumstances, the impugned order cannot be seen as patently illegal. The writ petition stands dismissed summarily with no order as to costs.

JUDGE

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