

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

WRIT PETITION NO. 7771 OF 2018

Basavraj Gurninga Patil	 Petitioner.
V/s	
Kavita Basavraj Patil	 Respondent.

Mr. Kuldeep U. Nikam for the Petitioner.
Mr. Pradeep J. Thorat for the Respondent.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 14, 2020

P.C.:-

1] This Petition is directed against the order dated 9/4/2018 passed by the Court of Civil Judge, Senior Division, Sangli in Misc. Civil Application No.113 of 2016 moved in H.M.P. No.118 of 2015 under the provisions of Order IX Rule 13 of Civil Procedure Code for setting aside the ex parte order of grant of divorce.

2] It is the case of the Petitioner that notice in divorce proceedings being H.M.P. No.118 of 2015 was issued on the address of non-applicant i.e. Classic Park, behind Ratna Hotel, Vishram Baug, Sangli. Since Bailiff's Report speaks of return of the said notice as non-

applicant was not residing at said address, a paper publication was caused, which court below should have considered as sufficient service. According to him, the Court below while setting aside decree for divorce has committed an error in ignoring service by paper publication.

3] Mr. Thorat, learned Counsel for the Respondent supported the order impugned and submitted that correct address was available with the Petitioner as notice dated 9/1/2015 was received by the Petitioner which mentions change in address.

4] Considered submissions.

5] The fact remains that notice dated 9/1/2015 specifically mentions the correct address of Respondent-wife viz. Old Kupwad Road, near Gandhi Nagar, Miraj, Sangli. Once it is established that change of address was within the knowledge of the Petitioner, effort made by the Petitioner of effecting service of notice of divorce proceedings on the old address and failure to serve such notice has resulted in issuance of paper publication has rightly been interpreted

to mean that service of divorce proceedings was not effected on Respondent-wife.

6] No case therefore for interference in extraordinary jurisdiction is made out. Petition fails and the same stands dismissed.

(NITIN W. SAMBRE, J.)