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| Mr.Cyrus Noshir Devghadwala | ... | Petitioner |
| versus                      |     |            |
| Mrs.Armin Cyrus Devghadwala | ... | Respondent |

Mr.Vijendrakumar Rai i/b Hulyalkar and Associates for the Petitioner.

**CORAM :- SMT.BHARATI DANGRE, J.**

**DATE :- MARCH 2, 2020**

**P.C. :-**

1. The petitioner-husband is aggrieved by the order passed by the learned District Judge, Pune on 7<sup>th</sup> April, 2018 thereby rejecting the application filed by him in terms of Order 7 Rule 11(d) of the Code of Civil Procedure, 1908.
2. On perusal of the order, it is apparent that an application was filed on 29<sup>th</sup> April, 2017 raising a specific bar provided under Rule 11(d) i.e. "the objection raised where the suit appears from the statement in the plaint to be barred by any law."
3. The learned District Judge has specifically dealt with the said application and has rejected the same and in my considered

opinion, in a rightful way.

4. Perusal of Section 29 of the Parsi Marriage and Divorce Act, 1936 would disclose that the said provision determines the jurisdiction of the suits to be instituted under the Act of 1936 and it contemplate several contingencies. The suit under the Act can be filed within the limits of the Court's jurisdiction where the defendant resides at the time of institution of the suit or where the marriage was solemnized. Sub-section (2) of Section 29 contemplate an institution where the defendant, at such time i.e. at the time of institution of suit, has left the territories to which the Act extends then the suit shall be brought in the Court at the place where the plaintiff and the defendant last resided together. Sub-section (3) then contemplates a situation independent to the one contemplated under Sub-sections (1) and (2) where the defendant may bring a suit in the Court of law at the place where the plaintiff resides or at the place where the plaintiff and the defendant last resided together, by seeking a relief in writing from the Court. This contingency, undoubtedly, by reading the said Section which is captioned as "Court in which suit to be brought" contemplate a contingency where irrespective of the fact whether the defendant reside in the territories to which the Act extends or not reside, the defendant by approaching the Court and seeking

the leave, the suit can be instituted in the place where the plaintiff resides or at the place where the plaintiff and the defendant lastly resided together. The bare reading in the contextual way of Section 29 would lead to no other conclusion than this.

5. The facts of the case clearly disclose and which are not disputed by the learned counsel for the petitioner that the wife was residing within the jurisdiction of the Court at Pune at the time when she instituted the proceedings. This is the end of the controversy. I find no infirmity in the impugned order passed. Necessarily, the writ petition which attempts to do so deserves a dismissal and is accordingly dismissed.

**(SMT.BHARATI DANGRE, J.)**