

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

WRIT PETITION NO. 4889/2021
Puja Sachin Thakre and ors ..Versus... Nil

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

Court's or Judge's orders

Mr. P.S.Tidke, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.
DATE : 02/12/2021

Heard Mr.Tidke, learned counsel for the Petitioner, who submits that since the petition u/s 13-B of Hindu Marriage Act, was filed on 28.7.2021, the date for computation of the time as contemplated by Sec. 13-B(2) of the H.M. Act has to commence from 29.7.2021, the day on which the application has been filed before the Court and not on the date on which the matter is presented before the Presiding Officer of the Court. He submits that the observations by the learned Court below that the first motion was on 01.09.2021, when the Court sent the matter to the Conciliation Officer for verification, could not be construed as a motion of both the parties as occurring in Section 13-B(2) of the H.M. Act and the date of the first presentation in the office of the Court has to be construed as such a date. He therefore submits that the impugned order would not be sustainable on the touchstone of law and is required to be quashed and set aside.

Considering the nature of proceedings, I do not think that the date of presentation of the petition u/s 13-B of the HM Act can be considered to be a motion by both the parties. In my considered opinion, it is only when the matter comes to the Court and the Court issues an order of any nature whatsoever on that, this date would be construed as the date of motion as contemplated by Section 13-B(2) of the H.M. Act. The case status report placed on record, indicates that on 05.08.2021, the matter was presented to the Court, upon which the Court passed an order directing verification and it is this date which can be considered to be the date of motion as contemplated by Section 13-B(2) of the H.M. Act. The impugned order, therefore, is modified to the above extent and the petition is accordingly disposed of.

JUDGE

rvjalit