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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5230 OF 2022**

Nikhil Suresh Gupta

..Petitioner

vs.

Amita Arun Burman

..Respondent

Mr. Jain I/b Ms. Namrata S. Bobade, for petitioner.
None for the Respondent.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 15, 2022.

P.C. :

1. Heard learned counsel for the petitioner. The contention of the learned counsel for the petitioner-husband is that the divorce petition filed by the respondent-wife at the Family Court, Bandra is not maintainable in view of section 19 of the Hindu Marriage Act, 1955 ('the said Act', for short). Learned counsel submitted that the marriage was solemnized at Thane. The parents of the respondent-wife are residing at Thane. The petitioner-husband is residing at Dombivali. Post marriage, the couple was residing at Dombivali. It is submitted that only with a view to harass the the petitioner, the respondent-wife has

shown her residential address as Ghatkopar so as to bring the petition within the jurisdiction of the Family Court at Mumbai. Learned counsel further submitted that the respondent has filed the proceedings under the Protection of Women From Domestic Violence Act, 2005 in Vikhroli Court and proceedings under section 498A of Indian Penal Code, 1860 with Kasarvadi police station, Thane. It is the further submission of the learned counsel for the petitioner that the impugned order passed by the Family Court is not a reasoned order. He submits that when an application is made on behalf of the petitioner-husband under section 9 read with Order VII Rule 7 of the Code of Civil Procedure, 1908 for return of the petition, the Family Court should have applied its mind to all these aspects before passing the order. According to him, the Family Court has only on the basis of the Aadhar Card which indicates that the address of the petitioner is at Ghatkopar, has dismissed the application.

2. I have heard learned counsel for the petitioner.
3. The impugned order dated 08/03/2022 passed by the

Family Court reads thus:

“ Prima facie it reflects from record that the petitioner is residing in Mumbai her Aadhar Card shows this fact. Hence this Court has jurisdiction in view of section 19 of the Hindu Marriage Act, 1955. Hence, application stands rejected.”

4. Section 19 of the said Act which provides for the territorial jurisdiction of the Court to which the petition shall be presented.

Section 19 of the said Act reads thus :

“19 Court to which petition shall be presented.

—Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction—

(i) the marriage was solemnised, or

(ii) the respondent, at the time of the presentation of the petition, resides, or

(iii) the parties to the marriage last resided together, or [(iiia) in case the wife is the petitioner, where she is residing on the date of presentation of the petition, or]

(iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.]”

It is seen that Sub-section (iv) of section 19 of the said Act provides that the petition shall be presented to the Court

within the local limits of whose ordinary original civil jurisdiction the petitioner is residing at the time of presentation of the petition. Before the Family Court, the petitioner relied upon the Aadhar Card which indicates that she is residing at Ghatkopar on the address mentioned on the Aadhar Card. In paragraph 47, the petitioner has averred that "the petitioner has her permanent address on Aadhar Card as 17 D/2 Shanti Niketan CHS Lal Bahadur Shastri Marg, near Shreyas Cinema, Ghatkopar West, Mumbai 400 086, this Hon'ble Court therefore has jurisdiction to entertain and try this petition." It is not the case of the petitioner herein that such premises are not available with the respondent-wife. The impugned order passed by the Family Court, in my opinion, is in conformity with the sub-section (iv) of section 19 of the said Act. I, therefore, see no reason to interfere with the impugned order passed by the Family Court.

5. The writ petition is dismissed. No costs.

(M. S. KARNIK, J.)