

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

WRIT PETITION NO. 1573 OF 2022

Ramesh Vitthalrao Channe,
Age 35 years, Occ. Student, R/o
Nachangaon, Tehsil Deoli, District
Wardha – 442 101

.... **PETITIONER**

// **VERSUS** //

1. Mrs. Meenakshi w/o Ramesh
Channe, Aged 30 years, Occ.
Service, R/o C/o Jyoti Dineshrao
Chawre, Ward No.14, Ramnagar,
Pulgaon, Tehsil Deoli, Dist. Wardha.
- 442 101

.... **RESPONDENT**

Shri Salim I Khan, Advocate for the petitioner.
Shri A.R. Trivedi, Advocate for the respondent.

CORAM : ROHIT B. DEO, J.
DATED : 21.03.2022

ORAL JUDGMENT :

Heard. **RULE.** Rule made returnable forthwith. With consent,
the petition is heard finally.

2. The petitioner is assailing the order dated 24.02.2022 rendered
by the Principal District Judge, Wardha in Misc. Judicial Case 18 of 2022,
whereby the application seeking transfer of Special Marriage Petition 3 of
2018 and Special Marriage Petition 10 of 2021 to the same Court, is rejected.

3. Special Marriage Petition 3 of 2018 is instituted by Smt. Meenakshi, who is the wife of the petitioner, seeking divorce. On the other hand, the Special Marriage Petition 10 of 2021 is preferred by the petitioner Mr. Ramesh seeking Restitution of Conjugal Rights.

4. The learned Counsel Mr. Khan for the petitioner would submit that the controversy is covered by the decision of the Apex Court in ***Ajay Lawania vs. Shobhna Dubey (2010) 15 SCC 354*** . In particular, reliance is placed on the observations of the Hon'ble Supreme Court in paragraph 4, which reads thus -

“4. It is well settled that if two petitions are filed under the Act, one under Section 9 and the other under Section 13, then, in order to avoid conflicting decisions, it is expedient that both the cases are heard by the same court. Evidence in the two cases should be recorded one after the other; arguments should be heard separately and thereafter, separate judgments should be delivered on one day.”

5. However, the facts on the record reveal that the petition seeking dissolution of marriage, which is instituted by Mrs. Meenakshi on 21.08.2018, is fixed for final arguments. The entire evidence has concluded. *Au contraire*, the petition seeking Restitution of Conjugal Rights filed by Mr. Ramesh, is at the initial stage.

6. I am satisfied that it would not be necessary to club both the petitions or to transfer them to the same Court. It *appears prima facie* that,

filing the petition for Restitution of the Conjugal Rights is a tactical move, which is apparent from the fact that such petition is filed belatedly and three years after, the wife instituted proceedings for divorce. This ofcourse is a *prima facie* observation. That apart, considering that the petition seeking the Restitution of Conjugal Rights has not progressed significantly and evidence is yet to commence, I find no error in the view taken by the learned Principal District Judge, Wardha.

7. The petition is dismissed.

(ROHIT B. DEO, J.)

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