

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

WRIT PETITION NO. 1993 OF 2022

Rajani Vilas Sontakke Vs. Vilas Kondiba Sontakke

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

Court's or Judge's orders

Mrs. D.I.Charlewar, Advocate for petitioner
Mr. N.R.Bhisikar, Advocate for respondent.

CORAM : AVINASH G. GHAROTE, J.
DATE : 19/08/2022

1] Heard Mrs. Chalewar, learned counsel for the petitioner and Mr. Bhisikar, learned counsel for the petitioner.

2] The petition challenges the order dated 25.03.2022, whereby the application under Section 24 of the Hindu Marriage Act filed by the petitioner has been partly allowed, holding that the petitioner is at liberty to seek enhancement or modification in the previous order of maintenance in the DV proceedings filed by her in the light of what has been held by the Apex Court in **Rajnish Vrs. Neha, AIR 2021 SC 569**.

3] Mr. Bhisikar, learned counsel for the respondent submits that the application has only been filed to delay the decision of Section 13 of Hindu Marriage Act proceedings filed by the respondent, which were at the stage of final argument in the year 2019 and

by filing an application under Section 9 of the Hindu Marriage Act in 2019, in which the application under Section 24 of the Hindu Marriage Act has been filed, the entire matter is being sought to be delayed intentionally.

4] The order is wholly misconceived, as **Rajnesh vrs. Neha** does not prohibit the entertaining of an application under Section 24 of the Hindu Marriage Act in different proceedings. What it directed is that while directing interim maintenance, the maintenance granted in earlier proceedings will have to be considered, as is spelt out from para 7-vii (a)(i).

5] That being the position, the impugned order cannot be sustained and is hereby quashed and set aside. The petition is accordingly allowed and the learned trial Court is directed to hear and decide the application at Exh. 6 on its own merits. Considering the delay occasioned and the fact that the proceedings under Sections 13 and 9 of the Hindu Marriage Act are clubbed together, the learned trial Court is directed to decide both the matters within a period of six months from today. No costs.

JUDGE

Rvjalit

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VASANTRAO JALIT
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Signing Date:20.08.2022 16:52