

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10839 OF 2022

Prasad Rajendra Lokhande .. Petitioner

Versus

Radhika Prasad Lokhande @
Renuka Jagannath Paralikar .. Respondent

Shri Ashwin V. Sakolkar along with Shri H. B. Nandagavale,
Advocates h/f Shri V. G. Sakolkar, Advocate for the Petitioner.
Ms. P. S. Gondhalekar, Advocate h/f Shri Devang R. Deshmukh,
Advocate for the Respondent.

**CORAM : SHARMILA U. DESHMUKH, J.
DATE : 28TH FEBRUARY, 2023.**

FINAL ORDER :

. Heard.

2. The challenge in the petition is to the order dated 04th July, 2022 passed by the Civil Judge Senior Division on application below Exhibit 28 in H.M.P. No. 99 of 2019.

3. The facts of the case are that petitioner has filed H.M.P. No. 99 of 2019 seeking dissolution of marriage between the parties U/Sec. 13(1)(i-a) and (i-b) of the Hindu Marriage Act on the ground of cruelty and desertion. H.M.P. No. 04 of 2019 has been instituted by the respondent/wife U/Sec. 9 of the Hindu Marriage Act for restitution of conjugal rights. By application

dated 05.03.2022, the petitioner-husband sought clubbing of the two petitions and for leading common evidence which has been turned down by the impugned order.

4. Heard learned counsel appearing for the parties.

5. Learned counsel appearing for the petitioner submits that the issues in both petitions are inter linked and common evidence will have to be led. Learned counsel for the petitioner relies on the judgment of this Court in the case of **Sanjeev Indravadan Dani Vs. Mrs. Rupal Sanjeev Dani** reported in **2009(2) Mh.L.J. 129**.

6. Per contra, learned counsel for the respondent supports the impugned order.

7. Considered submissions of the learned counsel for the parties.

8. The Civil Judge Senior Division has rejected the application for clubbing on the ground that the relief claimed in both petitions is different and it would be difficult for the parties to prove their respective cases. In matrimonial matters issues are inter linked and inter connected and it is in the interest of both parties that common evidence is led so that there would not be conflicting judgments. The petitioner is seeking decree of divorce, whereas the respondent is seeking decree of restitution

of conjugal rights. Both reliefs are based on their matrimonial life and evidence which will be led by the parties in respect of the matrimonial dispute will be the same. The judgment relied by the learned counsel for the petitioner in the case of **Sanjeev Indravadan Dani Vs. Mrs. Rupal Sanjeev Dani** (supra) is squarely applicable in the facts of the present case.

9. In the light of the above, the impugned order dated 04th July, 2022 is quashed and set aside and the application dated 05th March, 2022 filed by the petitioner for clubbing of H.M.P. No. 19 of 2019 and H. M. P. No. 04 of 2019 stands allowed.

10. Needless to state once petitions are clubbed evidence will be permitted to be led by the parties.

[SHARMILA U. DESHMUKH, J.]

bsb/Feb. 23