

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

WRIT PETITION NO. 3174 OF 2023

Sangita Rishisingh Bais__ Vs. __ Rushisingh Swarupsingh Bais

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

Court's or Judge's orders

Mr. Sawan Alaspurkar, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 12/06/2023

1] Heard Mr. Alaspurkar, learned counsel for the petitioner.

2] The petition challenges the order dated 19.11.2022, which is a conjoint order passed on an application under Order 7 Rule 11(a) read with Order 7 Rule 10 of the CPC, which has been rejected by the learned Trial Court.

3] In so far as the challenge regarding the rejection of the application under Order 7 Rule 11(a) of the CPC is concerned, the averment in the Hindu Marriage Petition, which is an application under Section 9 of the Hindu Marriage Act for restitution of conjugal right, categorically in para 4 (pg.18) makes the averment that the last resided place together was at Achalpur. In that light of the

matter since it is a settled position of law, that while considering a plea under Order 7 Rule 11(a) of CPC, the Court cannot travel beyond the plaint averment, the challenge in so far as it relates to the rejection of the application under Order 7 Rule 11(a) of CPC cannot be sustained and is rejected.

4] In so far as the plea regarding Order 7 Rule 10 of the CPC is concerned, since the application has been filed at the stage when the plaint alone is before the Court, the plea in that regard will have to be considered in light of the material on record, which also does not indicate that the cause of action had arisen anywhere else, than what is pleaded in the plaint, considering which I do not see any reason to interfere in the impugned order and the petition is accordingly dismissed. No costs.

JUDGE

Rvjalit