

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

WRIT PETITION NO.4437 OF 2022

Sau. Rakhi Sitaram Pawara,
Aged : 34 years, Occ: Nil,
R/o 52 Tirupati Nagar,
Near Jaihind High School,
Deopur, Dhule 424005. **PETITIONER**

...V E R S U S...

Sitaram Vijay Ranjeetsingh Pawara,
Aged 35 years, Occu : Service,
R/o. CPWD Quarter No.20,
Type III, Block-B, Bungalow No.17,
New CPWD Colony, Civil Lines,
North Telangkhedi Road,
Nagpur. **RESPONDENT**

Mr. Raju Kadu, Advocate for Petitioner.
Ms. Neelam A. Biala, Advocate for Respondent.

CORAM: **ROHIT B. DEO AND M. W. CHANDWANI, JJ.**
DATE: **24th JULY, 2023.**

ORAL JUDGMENT: (PER ROHIT B. DEO, J.)

Heard. Rule. Rule made returnable forthwith by
consent of the learned counsels for the parties.

2. The petitioner and the respondent were parties to
Petition F-637/2018.

3. The proceedings were disposed of on the basis of mutual consent under section 13B of the Hindu Marriage Act, 1955 vide judgment dated 19.09.2019.

4. It appears that the respondent – husband preferred an application purportedly under section 152 and 153 of the Civil Procedure Code, 1908 (CPC) for correction in the judgment and decree dated 19.09.2019.

5. The learned Judge of the Family Court allowed the application seeking correction of the judgment and decree vide order dated 23.10.2021, which is assailed herein. It appears that one sub paragraph is included and added after paragraph 7.

6. Mr. Kadu would question the very tenability of the proceedings and judgment. Mr. Kadu tells us that since both the parties belong to the Scheduled Tribe (S.T.), the recourse to the provisions of the Hindu Marriage Act was not permissible. We need not dilate on the said aspect.

7. The petition is partly allowed.

8. The order of correction of the judgment is set aside on the ground of breach of principles of natural justice.

9. If an application under section 152 and 153 of the CPC is maintainable in law, and is filed afresh, the same may be decided on merit after hearing both the sides.

10. The other relief claimed in the petition stands dismissed.

(M. W. CHANDWANI, J.)

(ROHIT B. DEO, J.)

NSN