



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO. 213 OF 2023

Dr Pravin Dattatray Borude

Petitioner

Versus

Prerna d/o Pravin Borude

Respondent

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Mr. Vikrant P. Raje, Advocate for the petitioner.

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CORAM : **SANDIPKUMAR C. MORE, J.**

Dated : **16 AUGUST 2024**

Order :

1. The petitioner, who is the original defendant in Special Civil Suit No.254/2022, has challenged the order dated 26.07.2023 passed below Exh.13 in the aforesaid suit by the learned trial Court i.e. 13th Civil Judge, Senior Division, Ahmednagar rejecting the application of the petitioner / defendant under Order VII Rule 11 of the Code of Civil Procedure for rejection of plaint filed by his own daughter i.e. the present respondent Kum. Prerna Pravin Borude.

2. Heard learned Counsel for the petitioner on admission and he submits that the present suit has been filed by the daughter of petitioner for claiming maintenance under Section 20 (3) of the Hindu Adoption and Maintenance

Act, 1956 wherein the application for rejection of plaint had been filed. According to him, the said application was filed on various grounds, such as, jurisdiction, non-joinder of necessary parties, principle of estoppel, limitation, Res-judicata, but the same has been erroneously rejected by the learned trial Court. During the course of the argument he challenged the impugned order only on the ground of jurisdiction by leaving other grounds. According to him, the Family Court, Ahmednagar is having jurisdiction to entertain the present suit as per Section 7 of the Family Courts Act, 1984, and therefore, as per Section 8 of the said Act, the learned trial Court shall transfer the present suit to the learned Family Court, Ahmednagar for disposal according to law.

3. On going through the impugned order as well as application (Exh.13), it is clearly evident that no ground in respect of jurisdiction of the learned Family Court, Ahmednagar has been raised in the application. The learned trial Court has also not discussed the said aspect in the impugned order. That means, the objection in respect of jurisdiction of the learned Family Court, Ahmednagar is raised for the first time before this Court. The rest of the

grounds are already waived by the learned Counsel for the petitioner. Therefore, whether the learned Family Court, Ahmednagar is having jurisdiction to entertain this suit, is to be decided first by the learned trial Court and if it is found that the learned Family Court, Ahmednagar is having jurisdiction to entertain the present dispute as per Section 7 of the Family Courts Act, then the question of transfer of the dispute to the Family Court, Ahmednagar as per Section 8 of the said Act, would arise. Presently no fault can be found with the impugned order passed by the learned trial Court. Under such circumstances, the present Civil Revision Application stands rejected with liberty to the petitioner for filing separate application to agitate the issue of jurisdiction of the Family Court, Ahmednagar. If such application is filed by the petitioner, then the learned trial Court is directed to decide the same according to law. As such, the Civil Revision Application stands disposed of.

(SANDIPKUMAR C. MORE, J.)