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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9237 OF 2024

Jeewan Singh Mehra

.. Petitioner

Versus

Jyoti Kumari

.. Respondent

-
- Mr. Naveen Sharma, Advocate for Petitioner through VC.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 08, 2024.

P.C.:

- 1.** Heard Mr. Sharma, learned Advocate for Petitioner through VC.
- 2.** The learned Trial Court has passed the impugned order dated 01.02.2024 in Application filed below Exhibit “22” in Marriage Petition No.1381 of 2022 filed by the Writ Petitioner – husband.
- 3.** By virtue of that Application, Writ Petitioner – husband sought for return of the plaint under Order VII Rule 10 of the Code of Civil Procedure, 1908 (for short “CPC”).
- 4.** Mr. Sharma, learned Advocate for Writ Petitioner would submit that the Divorce Petition has been filed by the wife in the Trial Court at Pune, where she does not reside at all. He would submit that marriage was solemnized in Lucknow and thereafter both parties have

been residing in Singapore. He would candidly inform the Court that Writ Petitioner – husband has already filed a Divorce Petition in the Court at Lucknow, where the marriage was solemnized between parties. On being asked as to how and what may have then prompted the wife to file her Divorce Petition in Pune, learned Advocate would inform the Court that the wife was residing in Pune prior to her marriage.

5. He would submit that the provisions of Section 19(iii-a) of the Hindu Marriage Act, undoubtedly facilitate jurisdiction for filing such a Petition for the wife, but it has to be at the place at which the wife resides on that date. He would submit that in that view of the matter, the jurisdiction conferred by the Legislation under Section 19(iii-a) of the Hindu Marriage Act cannot be invoked to file the Petition at Pune where the wife resided prior to her marriage. According to him, the wife was never residing at Pune at the time when the Petition is filed before the Court in Pune.

6. *Prima facie*, after reading the pleadings and the impugned order, this Court agrees with the submissions advanced by the Advocate for Petitioner. In that view of the matter, an arguable case has been made out by Sharma for issuance of notice and immediate stay of the impugned order dated 01.02.2024. I am inclined to hear the Respondent.

7. Hence, issue notice to the Respondent. Humdast permitted.
8. In addition to Court notice, Petitioner is permitted to serve a copy of the Writ Petition and this order on the Respondent and inform her about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.
9. After receiving notice, Respondent is directed to remain present in Court on the next adjourned date either by herself or through her Advocate.
10. It is clarified that, this Writ Petition shall be disposed of on the next adjourned date at the stage of admission itself after hearing both the parties.
11. Respondent is directed to take cognizance of this order and file Affidavit-in-Reply within two weeks from today, if so desired.
12. Rejoinder, if any, shall be filed within one week thereafter
13. In the meanwhile, proceedings before the learned Court at Pune shall stand stayed until the present Writ Petition is determined by this Court.
14. Stand over to 5th August 2024.

[MILIND N. JADHAV, J.]

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