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

WRIT PETITION NO. 703 OF 2024

Vaishali Sudhir Karche

... Petitioner

V/s.

Sudhir Yashwant Karche

... Respondent

Mr. Ravi Kadam for the Petitioner

Mr. Ajinkya Udane with Mr. Vinayak Pandit with Ms. Maitreyee Garade for
Respondent through Legal Aid

CORAM : ALOK ARADHE, CJ.

DATE : 07 JULY 2025

P.C. :

1. This Petition under Article 227 of the Constitution of India is filed against the order dated 25 July 2023 by which application filed by the Petitioner under Order 7 Rule 11 of the Code of Civil Procedure has been rejected on the ground that the parties have been living separately since 28 February 2022 and the objection raised by the Petitioner with regard to territorial jurisdiction of the Court is not justified.

2. Facts giving rise to filing of this Petition in nut shell are that the Respondent filed Petition under Section 9 of the Guardians and Wards Act, 1890 seeking appointment as a guardian of the minor son. In the aforesaid proceedings, the Petitioner/husband has raised an objection with regard to

territorial jurisdiction of the Court *inter-alia* on the ground that the parties son is residing in Satara and therefore, the Court at Malshiras has no jurisdiction. The Respondent filed a reply and opposed the averments made in the application. The Trial Court, by impugned order dated 25 July 2023, has rejected the aforesaid application.

3. I have heard the learned Counsel for the parties at length.

4. The issue with regard to territorial jurisdiction of the Court in the facts and circumstances of the case has to be decided with regard to the place of residence of the minor or where he has the property. The aforesaid issue is a question of fact which is not admitted. Therefore, the Court at this stage, without recording the evidence of the parties could not have decided the aforesaid mixed question of law and fact. Therefore, the impugned order dated 25 July 2023 is set aside.

5. The Trial Court is directed to record the evidence of the parties. The Trial Court shall frame an issue with regard to territorial jurisdiction and shall decide the same along with all other issues. The Trial Court shall decide the proceedings pending before it expeditiously.

6. Accordingly, the Writ Petition is disposed of.

(CHIEF JUSTICE)