



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

FIRST APPEAL NO.783 OF 2024

[Smita Umakant Lanjewar ..Vs.. Umakant Namdevrao Lanjewar]

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

Court's or Judge's order

Mr R. L. Alone, Advocate for Appellant.
Mr S. M. Prasad, Advocate for Respondent.

CORAM : M. W. CHANDWANI, J.

DATE : 9th APRIL, 2025.

1. Heard.
2. The first appeal has been filed against the judgment and decree passed by the learned Civil Judge Senior Division, Gadchiroli nullifying the marriage solemnized between the appellant and respondent. The maintainability of appeal has been challenged in this appeal.
3. Section 28 of the Hindu Marriage Act, 1955 contemplates the appeals from decrees and orders, which reads as under :

“28. Appeals from decrees and orders.-

(1) All decrees made by the Court in any proceeding under this Act shall, subject to the provisions of sub-section (3), be appealable as decrees of the Court made in the exercise of its original civil jurisdiction, and every such appeal shall lie to the Court to which appeals ordinarily lie from the decisions of the Court given in the exercise of its original civil jurisdiction.

(2) Orders made by the Court in any proceeding under this Act under Section 25 or Section 26 shall, subject to the provisions of sub-section (3), be appealable if they are not interim orders, and every such appeal shall lie to the Court to which appeals ordinarily lie from the decisions of the Court given in exercise of its original civil jurisdiction.

(3) There shall be no appeal under this section on the subject of costs only.

(4) Every appeal under this section shall be preferred within a period of ninety days from the date of the decree or order.”

4. Thus, perusal of aforesaid section reveals that the appeal against decree passed by the Court shall lie to the Court to which appeals ordinarily lie from the decisions of the Court given in the exercise of its original civil jurisdiction. There is no dispute that ordinarily, the appeals against the decisions of the Civil Judge Senior Division lie before the District Judge. A reference can be made to Section 8 of the Maharashtra Civil Courts Act, 1869, which is reproduced as under :

“8. Appellate jurisdiction of District Court.- Except as provided in Sections 16, 17 and 26 the District Court shall be the Court of Appeal from all decrees and orders passed by the subordinate Courts from which an appeal lies under any law for the time being in force.”

5. Thus, in view of the provisions mentioned above, the District Court shall be the Court of Appeal from all decrees and orders passed order by the subordinate Courts from which an appeal lies. Thus, appeal against the order of decree and order passed by the Civil Judge Senior Division, Gadchiroli shall lie before the District Judge, Gadchiroli. Therefore, the appeal is not maintainable and accordingly it is **dismissed**.

6. At this stage, the learned counsel for the appellant seeks liberty to file appeal before the District Judge, Gadchiroli.

7. The liberty is always with the appellant in wake of Section 28 of the Hindu Marriage Act.

JUDGE