



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

CIVIL APPLICATION (CAW) NO. 2500 OF 2025
IN
WRIT PETITION NO. 6257 OF 2025

NISHIKANT S/O. PRAMOD DESHMUKH
...Vs...
 SAI W/O NISHIKANT DESHMUKH

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri Z.Z. Haq, Advocate for applicant/petitioner.

CORAM: RAJNISH R. VYAS, J.

DATED : 28th OCTOBER, 2025.

This is an application preferred under Order 39, Rule 1 & 2 of the Civil Procedure Code by the husband against the respondent wife.

2. In writ petition, a prayer is made to set aside the order dated 19/09/2025 passed in Petition No. A-31/2025 by the Principal Judge, Family Court, Amravati rejecting the application preferred by the husband praying for grant of temporary injunction restraining the respondent wife from proceeding with the petition bearing case no. 24-3-00133-0 SEA before Superior Court of Washington, County of King, U.S. as well as from initiating any other proceedings against the husband in any County/Tribunal/Forum in any country outside India.

3. The marriage between the parties was solemnized on 29/12/2019 at Amravati as per the customs and rites of Hindu

community, which was subsequently registered with Amravati Municipal Corporation on 30/12/2019. According to the husband, the respondent wife was diagnosed with sexual dysfunction. At the time of marriage, the husband was residing in U.S. and wife was residing at Nagpur. The wife, after marriage, came to reside with the husband in September, 2020 in U.S. and they resided together in Baltimore till November, 2021. The parties got permanent resident card in the month of September, 2021. According to the husband, wife deserted him on 31/01/2023, which resulted in filing of proceeding bearing case no. 24-3-00133-0 SEA for invalidation/annulment of marriage before the Superior Court of Washington, County of King, U.S..

4. In pursuance with summons, wife appeared and filed a response. She requested the Court to pass Final Divorce Order **(pg.61)**. The Superior Court of Washington, County of King, U.S. further on 06/07/2024 directed the husband to pay spousal support and ordered to pay certain amount. The husband thereafter preferred motion **(pg.131)** in the Superior Court for “Exparte Motion to Dismiss”. The said Court thereafter vide its order dated 25/11/2024 **(pg.147)** granted the Motion to Dismiss, filed by the husband. Consequently, all the proceedings in the aforesaid case were dismissed.

5. The respondent wife, thereafter, preferred an application praying for setting aside the order of dismissing the case, which was allowed on 20/12/2024 and consequently, the order dated 25/11/2024 dismissing the case, was set aside, on

the ground that wife was entitled for opportunity to be heard.

6. According to the learned counsel for the petitioner, the said order is challenged in the Foreign Court before the appropriate authority. The husband after shifting to India, more particularly at Amravati, filed the H.M.P.No. A-233/2024 before the Family Court, Amravati for annulment of marriage. In the said petition, an application for injunction was preferred by the husband on the ground that, due to harassment caused by the proceedings in U.S., he had to come to India as he was finding it difficult to meet with the expenses without job. He further stated that, he was shifted to India on 11/04/2025 and he is still residing here. According to him, continuing proceedings in U.S. are very expensive and it will be in the interest of justice for both the parties, if the proceedings are continued here.

The aforesaid application was rejected by the learned Family Court vide order dated 19/09/2025 (pg.21). Learned Family Court has also taken into consideration and discussed in detailed the law laid down by the Hon'ble Apex Court in the case of **Mahavendra L. Bhatnagar V/s. Bhavna Lall {(2021) 2 SSC 775}** so also in the case of **Y. Narsimha Rao & ors. V/s. Y. Venkata Laxmi & anr. {(1991) 3 SCC 451}**. The Family Court has also taken into consideration order dated **08/08/2025** passed in **First Appeal No. 2426/2023 with First Appeal No. 2451/2023** in the case of **Smiti Shah V/s. Akash Shah** by the High Court, Gujrat at Ahmadabad. Even the parameters laid down in the case of **Modi Entertainment Network V/s. W.S.G. Cricket PTE. Ltd. {(2003) 4 SCC 341**

were also taken into consideration. The said judgments are also cited during the course of hearing before this Court.

7. As the question is regarding grant of injunction, I have considered entire documents on record. It is not disputed that the initial proceedings before the Foreign Court were filed by the husband for annulment. In response to it, the wife had filed proceedings for divorce and had also applied for spousal support. The spousal support is also granted by the Foreign Court. An application preferred by the husband for dismissal of his annulment petition though was earlier allowed, order came to be recalled subsequently at the instance of wife.

8. According to the learned counsel for the petitioner, the said order is challenged before the Appropriate Forum therein. While deciding the application, the three tests for deciding the issue while granting injunction i.e. *prima facie* case, balance of convenience, irreparable loss and injury, are to be taken into consideration. According to the husband, the case is now fixed before the Foreign Court on 03/11/2025. His contention is that the marriage was performed at Amravati and, therefore, any decree if passed by the Foreign Court granting divorce would not be executable in India, is a far-fetched argument. Just because the case is now fixed on 03/11/2025 before the Foreign Court, it does not mean that the irreparable loss would be caused to the husband. Recalling of order of dismissal by the Foreign Court *prima facie* shows that the husband's contention was not found appealing .

9. At this stage, it would not be proper on my part to comment on the merit of proceedings, since presently issue regarding grant of injunction is decided. Pendency of proceedings for annulment and divorce will in no manner cause irreparable loss to the petitioner husband. As the husband and wife both have filed the proceedings by submitting to the jurisdiction of Foreign Court and those proceedings are pending, considering the doctrine of comity, it cannot be said that there is a *prima facie* case in favour of the petitioner/applicant. The balance of convenience also lies in favour of the wife as she has been given spousal support and has been contesting the proceedings for divorce before the Foreign Court. All the issues involved, can be dealt in detail at the time of final disposal of the writ petition. The matter can also be taken for hearing after Diwali Vacation-2025, if the appropriate application is preferred by the husband. In that view of the matter, since no case is made out for grant of injunction, Civil Application No. 2500/2025 is **rejected**.

(RAJNISH R. VYAS, J.)

B.T.K.