



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

CIVIL REVISION APPLICATION NO.36/2026

Balesh S/o Nagorao Warkade

...Versus...

Megha W/o Balesh Warkade

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

Court's or Judge's orders

Mr. K.S. Motwani, Advocate for applicant

CORAM : ROHIT W. JOSHI, J.

DATE : 24/03/2026

1. The present Revision Application takes exception to the order dated 30/01/2026, passed by the learned Joint Civil Judge, Senior Division, Bhandara on application at Exh.12 in Hindu Marriage Petition No.150/2025.

2. The respondent/wife has filed petition for divorce against the applicant/husband, invoking provisions of Hindu Marriage Act, 1955. The contention of the applicant/husband is that parties belong to Scheduled Tribe Category and therefore, Hindu Marriage Act is not applicable, in view of Section 2 (2) of the said Act.

3. The contention that parties belong to 'Gond' Tribe may be correct. However, perusal of plaint does not indicate any averment to the effect that parties belong to 'Gond' Tribe. The contention in the application that Hindu Marriage Act is

not applicable since parties belong to 'Gond' Tribe, is a matter of defence, which cannot be looked into while dealing with application for rejection of plaint under Order VII Rule 7 of the Code of Civil Procedure.

4. Apart from this, the respondent/wife has specifically stated that the marriage was performed as per Hindu rituals and customs. The learned Trial Court has placed reliance on the judgment of the Hon'ble Supreme Court in the case of *Labishwar Manjhi Vs. Pran Manjhi and others*, reported in *(2000) 8 SCC 587*, wherein the Hon'ble Supreme Court has held that in case where members of Tribal Community are Hinduised, the provisions of Hindu Succession Act, 1956 will be applicable. Similarly, the Hon'ble Supreme Court has, in the case of *Dr. Surajmani Stella Kujur Vs. Durga Charan Hansdah*, reported in *2001 (3) SCC 13*, held that offence of bigamy can be made out against members of tribal community who are sufficiently Hinduised. Placing reliance on the said decision, the Delhi High Court has, in the case of *Satprakash Meena Vs. Alka Meena*, reported in *2021 SCC OnLine Delhi 3645*, held that provisions of Hindu Marriage Act will be applicable to members of Tribal Community where marriage is performed as per Hindu rites and customs and parties are sufficiently Hinduised.

5. In view of the plaint averments, where the wife has stated that the marriage was performed as per customs and rituals of Hindus, the defence with respect to applicability of Hindu Marriage Act will be a matter of trial.

6. In view of the aforesaid, the learned Trial Court has rightly rejected the application for rejection of plaint, filed by the applicant/husband. Civil Revision Application is, therefore, rejected.

(ROHIT W. JOSHI, J.)

Wadkar