

**(1983) 04 BOM CK 0034**

**Bombay High Court**

**Case No:** Pauper Petition No. 7 of 1982

Neeta Deelip Kumar Suchak

APPELLANT

Vs

Deelip Kumar Mohan Lal Suchak  
and Others

RESPONDENT

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**Date of Decision:** April 8, 1983

**Acts Referred:**

- Hindu Adoptions and Maintenance Act, 1956 - Section 18

**Citation:** AIR 1983 Bom 235 : (1984) 1 BomCR 222

**Hon'ble Judges:** D.N. Metha, J

**Bench:** Single Bench

**Advocate:** H.M. shah, Vinod Sharma and P.H. Goswami, for the Appellant; M.T. Bathiji and M.D. Angal, for the Respondent

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### **Judgement**

1. The Petitioner herein, Neeta Deelipkumar Suchak, has filed, this Petition in forma pauperis against her husband-Respondent No. 1 her husband's three brothers--Respondents Nos. 2, 3 & 5 as also against her father-in-law Respondent No. 4. and two Companies--Respondents Nos. 6 and 7, being the partnership Firms of Respondent Nos. 1 to 5. The Petitioner has prayed firstly that she may be permitted to sue in forma pauperis; Secondly that, the Respondents Nos. 1 to 5 be ordered and decreed to pay the Petitioner a sum of Rs. 5,000/- per month from the date of the petition; thirdly, the petitioner prays for a decree against the Respondent for the sum of Rs. 27,528/- together with interest thereon at the rate of 18 percent per annum from 21-10-1979 till payment; fourthly the Petitioner has prayed that Respondents Nos. 1 to 5 be ordered to return to the petitioner articles and things mentioned in Exhibit "D" to the Petition, or in the alternative, in the event of Respondents Nos. 1 to 5 failing to return her articles and things, a decree for the sum of Rs. 45,000/- be passed against them together with interest thereon at the rate of 18 per cent per annum from the date of the suit till payment; fifthly, the petitioner has prayed that Respondents Nos. 1 to 5 be called upon to render account

to the Petitioner on the footing of wilful default in respect of the income accruing to the Petitioner or standing to her credit or payable to her in any of the businesses mentioned by her in her Petition together with interest on the said amount that may be ascertained on taking such accounts at the rate of 18 per cent per annum from the date of the suit till payment; sixthly, the petitioner has prayed that Respondents Nos. 1 to 5 be ordered and decreed to pay to the petitioner a sum of Rupees 95,000/- as arrears of maintenance for a period of three years prior to the date of the suit, with interest thereon at the date of the suit till payment; seventhly, the Petitioner has prayed for a declaration that the Petitioner has, a charge on the immovable properties belonging to Respondent Nos. 1 to 5 in respect of the amounts that may be decreed by this Court and in the event of the failure on the part of Respondents No. 1 to 5 to pay the said amount, for an order of sale of the said immovable properties so charged, eighthly, the Petitioner has prayed that all inquiries be made, directions be given and Order passed, and accounts be taken for the purposes aforesaid. Lastly, the petitioner has prayed for costs of the petition.

2. After the filing of the Petition, the Petitioner took out a Notice of Motion bearing No. 495 of 1982 for interim maintenance. The Notice of Motion appeared before my learned brother Kania. J. The parties took a consent Order before Kania J. on 30-8-1982. Under the said Order, Respondent No. 1 agreed to pay a sum of Rs. 500/- per month as maintenance for the son Jai from 1-9-1982. Kania J. ordered that the petition and the Notice of Motion be placed on board for trial of preliminary issue regarding jurisdiction on 29-11-1982 peremptorily.

3. The Petition has now appeared before me for the trial of preliminary issue of jurisdiction of this Court.

4. Before I deal with the submissions made by the learned Advocates of the parties, it will be pertinent to set out a few facts. The Petitioner and Respondent No. 1 were married according to Hindu Religious Rites and ceremonies on 15th February, 1978 at Lohana Mahajan Wadi, Kalyan. According to the Petitioner, the marriage was not registered. The Petitioner stated that after her marriage, she went to live with Respondent No. 1 at his parents' place at Kalyan in Thane District. On 14th March 1980, the petitioner gave birth to a male child named Jai at the Breach Candy Hospital, Bombay. After the birth of her son, the Petitioner returned to the matrimonial home and remained there till 29th May 1980, when according to the petitioner, she was compelled to leave the matrimonial home by Respondent No. 1 along with her son Jai.

5. The Petitioner stated that after her marriage she and Respondent No. 1 went for a honeymoon to Calcutta, Darjeeling and Delhi for about a month. The Petitioner and Respondent No. 1 stayed at Calcutta from 23rd February 1978 till 1st March 1978 at the place of Respondent No. 1's sister Bhanuben and her husband. The Petitioner stated that at Calcutta there was no servant in the 1st Respondent's sister's house and the Petitioner was made to work in the home. The Petitioner stated that

although she fell ill at Calcutta, she was obliged to work in the kitchen. From Calcutta the Petitioner and the 1st Respondent No. 1, was, however inattentive and indifferent to her and spent his time in drinking and gambling. From Darjeeling they returned to Calcutta and from there they went to Delhi and there they stayed at Alka Hotel. According to the petitioner, at Delhi, Respondent No. 1 along with his brother Respondent No. 3, spent his time in attending to his business affairs and visiting various factories. The Petitioner was taken along with them by Respondents Nos. 1 and 3 and was made to sit alone in the car for hours, whilst Respondents Nos. 1 and 3 attended to their business. On 22nd March 1978, the Petitioner and Respondent No. 1 returned to Bombay, stayed at the Petitioner's parents' place for a day and thereafter returned to Kalyan at the House of Respondent No. 1.

6. The Petitioner stated that during her matrimonial life with Respondent No. 1 at Kalyan, she was treated with extreme cruelty. The Petitioner has set out a list of events in the course of which she was cruelly treated and assaulted by Respondent No. 1. It is not necessary to go into details of the various acts of cruelty at this stage.

7. The Petitioner then stated that on 28th May, 1980, Respondent No. 1 returned home late at night in a drunken condition and quarrelled with the Petitioner and started assaulting her without any reason. The Petitioner stated that she was not in very good health as she had delivered a baby only two months before that day. In order to escape from the hands of Respondent No. 1, the Petitioner ran from her room on the second floor to the first floor and contacted Respondent No. 1's elder brother and tried to seek his protection. The 1st Respondent's brother instead of helping the Petitioner instigated the 1st Respondent and both of them together beat the petitioner. Thereafter Respondent No. 1 and his brother forcibly pushed the Petitioner out of the house. The Petitioner was not permitted to take her clothes or any other articles belonging to her. The Petitioner stated that after she was forcibly pushed out of the house along with her child she went to the Railway Station and thereafter travelled by the first available train to Bombay and reached her parents' place on 29th May 1980. On reaching Bombay, the Petitioner lodged a N. C. Complaint with the Gamdevi Police Station against Respondent No. 1 charging him with assault.

8. The Petitioner has also stated that on 17th July 1980, one R. T. Suchak, administration Income Tax Practitioner at Kalyan addressed a letter to her forwarding certain Income Tax Returns for the Assessment year 1980-81 and calling upon her to sign the said Returns and to return the same.

9. On 17th January 1982, Respondent No. 1 approached the Petitioner and handed over to her a draft of divorce agreement according to the custom of the community.

10. On 27th January 1982, the Petitioner received a notice from the 1st Respondent's Advocate in which various false allegations had been made against her. The Petitioner's Advocate called upon her to return to Respondent No. 1 and to

resume matrimonial life. Thereafter certain correspondence took place between the Petitioner and Respondent No. 1's Advocate which has been annexed to the Petition.

11. On 23rd March 1982, the Petitioner filed the present Petition in forma pauperis for maintenance and other reliefs set out heretofore.

12. Mr. Bathiji, the learned Advocate appearing on behalf of the Respondents has submitted that no part of the cause of action has arisen within the jurisdiction of this Court and, therefore, this Court would have no jurisdiction to try this petition. Mr. Bathiji pointed out that the Petitioner and Respondent No. 1 were married on 15th February 1978 at Kalyan and after the marriage both of them lived and cohabited at Kalyan. The Petitioner and Respondent No. 1 last resided at Kalyan and, even according to the Petitioner, she was driven out of the matrimonial home at Kalyan on 29-5-1980.

13. Mr. Bathiji has drawn my attention to Paragraph 35 of the Petition which contains the jurisdiction Clause. In Paragraph 35 the Petitioner has stated that the Petitioner had been residing with her minor son at Bombay at her parents' place. The Petitioner had been deserted in Bombay and was compelled to stay in Bombay. The Petitioner was entitled to be paid the amount of her maintenance and her income standing to her credit in various businesses of the Respondents, in Bombay. The draft divorce documents were delivered to the Petitioner at Bombay, the Petitioner in Bombay and, therefore, a substantial part of the cause of action had arisen in Bombay. The Petitioner craved leave under Clause 12 of the Letters Patent and stated that with such leave granted, this Court would have jurisdiction to try the Petition. It may be mentioned here that this Court was pleased to grant leave under Clause 12 of the Letters Patent on 21st March 1982.

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14. The present Petition has been filed u/s 18 sub-section (1) and sub-section (2) (b) of the Hindu Adoptions and Maintenance Act, 1956. Section 18 sub-sections (1) and (2) (b) are in the following terms:--

"Section 18(1) -- Subject to the provisions of this section, a Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained by her husband during her lifetime.

Sub-section (2) -- A Hindu wife shall be entitled to live separately from her husband without forfeiting her claim to maintenance --

(a) .....

(b) if he has treated her with such cruelty as to cause a reasonable apprehension in her mind that it will be harmful or injurious to live with her husband."

(The rest of the section is not material for the purpose of this discussion.)

15. Section 19 of the Hindu Marriage Act, 1955 provided that a Petition under that Act i.e. Hindu Marriage Act, should be presented to the District Court within the local limits of whose ordinary original civil jurisdiction--

(i) the marriage was solemnized, or

(ii) the respondent, at the time of presentation of the petition, resides, or

(iii) the parties to the marriage last resided together, or

(iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive."

It is pertinent to point out that there is no similar jurisdiction provision clause contained in the Hindu Adoptions and Maintenance Act, 1956. Therefore, this Court would be clothed with jurisdiction under Clause 12 of the Letters Patent. Clause 12 of the Letters Patents is in the following terms:--

"And we do hereby further ordain, that the said High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original civil jurisdiction, shall be empowered to receive, try, and determine suits of every description, if in the case of suits for land or other immovable property, such land or property shall be situated, or in all other cases if the cause of action shall have arisen, either wholly, or, in case the leave of the Court shall have been first obtained in part, within the local limits of the ordinary original jurisdiction of the said High Court, or if the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain within such limits; except that the said High Court shall not have such original jurisdiction in cases failing within the jurisdiction of the Small Cause Court at Calcutta in which the debt or damage, or value of the property sued for, does not exceed one hundred rupees."

16. Under Clause 12 of the Letters Patent this Court would have jurisdiction in three eventualities. If the suit related to the land or other immovable property then the suit could be filed in the Court where the land or the property was situated. In all other cases, if the cause of action had arisen wholly or in part within the local limits of the ordinary original jurisdiction of this Court then with leave of the Court or where the Defendant at the time of the commencement of the suit resided or carried on business or personally worked for gain within such limits.

17. Mr. Bathiji contended that since no part of the cause of action had arisen within the jurisdiction of this Court, the Petition could not be tried by this Court. Mr. Bathiji also contended that the fact that the Petitioner had obtained leave from this Court under Cl. 12 of the Letters Patent would be immaterial if initially this Court lacked jurisdiction to entertain the Petition. There is considerable substance in this contention of Mr. Bathiji, but I shall deal with this contention at a later stage.

18. The question to be decided while determining the issue of jurisdiction in this petition is whether any part of the cause of action had arisen or accrued within the local limits of the jurisdiction of this Court.

19. Mr. Shah, the learned Advocate appearing on behalf of the Petitioner has pointed out six circumstances which, according to him, had arisen within the local limits of this Court and, therefore, a substantial part of the cause of action had arisen within the jurisdiction of this Court. Mr. Shah pointed out firstly that the child Jai was born in Bombay on 14th March, 1980. Secondly, after the Petitioner had been driven out from the matrimonial home she came down to Bombay and lodged a complaint with police in Bombay, Thirdly Respondent No. 1 delivered a draft divorce document to the Petitioner in Bombay. Fourthly, that the Income Tax practitioner of Respondent No. 1 had forward and delivered Income Tax returns to her to be signed by the Petitioner in Bombay. Fifthly, the constructive desertion of the Petitioner by the 1st Respondent had taken place in Bombay. Sixthly, Respondent No. 1 had sent a letter to the Petitioner calling upon her to return to the matrimonial home which was addressed to the Petitioner in Bombay and lastly, the claim for maintenance for herself and her child arose in Bombay.

20. Mr. Shah has cited a number of authorities in support of his submissions and I shall proceed to deal with them now. Mr. Shah firstly relied on the observations made by the Division Bench of this Court in the case of [A Vs. B](#), to the effect that :--

"The word "maintenance" is not defined in the Hindu Marriage Act. It is, however, defined in the Hindu Adoptions and Maintenance Act. Under S. 3(b) "maintenance" includes -- in all cases, provision for food, clothing, residence, education and medical attendance and treatment."

Mr. Shah relied on the provision for residence contained in Section 3(b) of the Hindu Adoptions and Maintenance Act, 1956.

20A. Mr. Shah then relied upon a ruling of the Madras High Court in the case of [G. Venkatesha Bhat and Others Vs. Kamlapat Motilal and Others](#), . Mr. Shah relied on the Head Notes (a) and (d) of this authority and it will suffice to recite the two Head Notes here :--

(a) The expression "cause of action" has been compendiously defined to mean every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. It does not comprise every piece of evidence which is necessary to be proved. It is, in other words, a bundle of essential facts which are necessary for the plaintiff to prove before he can succeed in the suit. It has not relation whatever to the defence which might be set up by the defendants nor does it depend upon the character of the relief prayed for the plaintiff. It refers entirely to the grounds set forth in the plaint as the cause of action or in the other words, to the media upon which the plaintiff asks the Court to arrive at a conclusion in his favour."

(d) "Part of the cause of action arises where money is expressly or impliedly payable under the contract. If the place of payment is not indicated in the contract, it has to be ascertained with reference to the intention of the parties and the circumstances of the case. Recourse then will have to be had to the relevant provisions of the Sale of Goods Act and particularly to S. 36 of that Act which lays down that in the absence of any contract to the contrary, goods sold are to be delivered at the place at which they are at the time of the sale and S. 36 of the same Act which lays down that unless otherwise agreed, delivery of the goods and the payment of the price are concurrent conditions."

21. Mr. Shah then relied upon another ruling of the Madras High Court in the case of *Society for Propagation of Gospel in Foreign Parts v. R. Sama Rao Naidu* reported in AIR 1938 Mad 977. It will suffice to recite only the Head note here :--

"Where a lease is silent as to the place where the rent is to be paid, the question as to where it is payable is to be decided with reference to S. 49, Contract Act, which provides that when no place is fixed in the contract for the performance of it, it is the duty of the promisor to apply to the promisee to appoint a reasonable place for the performance of the promise and to perform it at such place. If from the circumstances, in which contract in question was entered into, it is reasonable to infer that the intention of the parties was that performance was to be in a certain place, that inference should be drawn, whether the rule of the English Common Act, which requires the debtor to seek the creditor, applies or not to India."

22. To the same effect, Mr. Shah has cited the rulings in (1) [Firm Shah Chandanmal Fatehraj and Others Vs. Hazarilal](#), ; (2) [K.A.S. Mohammed Ibrahim Vs. Jaithoon Bivi Ammal, represented by her next friend and guardian, Shaik Dawood Rowther](#), ; (3) *Mohd. Khalil Khan v. Mahboob Ali* reported in AIR 1942 All 122 and (4) [Bimal Singh Kothari and Another Vs. Muir Mills Co. Ltd. and Others](#), . It may be pointed out that all these rulings are under the Contract Act and the observations made in these rulings, to my mind, cannot affect the question of jurisdiction which is to be decided in this case with reference to Clause 12 of the Letters Patent.

23. Mr. Shah contended that the right of maintenance accrued in Bombay and the obligation of the husband to maintain arose in Bombay. Hence part of the cause of action arose in Bombay and this Court would have jurisdiction. I administration unable to accept this contention of Mr. Shah. u/s 18 of the Hindu Adoptions and Maintenance Act, the Petitioner is entitled to maintenance provided she first proved that she was treated by the husband with such cruelty as to cause a reasonable apprehension in her mind that it would be harmful or injurious for her to live with him. The various acts of cruelty and desertion in the instant case took place at Kalyan and, therefore, the cause of action or any part thereof accrued in Kalyan and not in Bombay.

24. Mr. Shah relied upon a ruling of the Calcutta High Court under Mahomedan Law in the case of [Tusliman Bibi Vs. Abdul Latif Mia](#), where the wife had claimed dower. It will suffice to cite the Head Note of the authority :--

"A suit on a contract can be instituted in the Court which has territorial jurisdiction over the place where the contract has to be performed. On the principle that when the creditor is residing in the realm, the debtor must follow the creditor unless there is a different contract between them, the place of performance must be taken to be the place where the creditor resides. The only limitation to the principle is that the creditor must reside within the realm. The above principle of English Law is applicable in India.

Where therefore a suit for prompt dower by a Mahomedan wife against her husband is instituted in the Court, within whose jurisdiction the wife resides, the place of performance must be taken to be the place where the plaintiff resides and the Court has jurisdiction to entertain the suit."

Mr. Shah has strongly relied on the ruling of the Calcutta High Court to show that the claim for dower arose at the place where the Plaintiff resided and not the place where the Defendant resided. It needs to be stated here that the ruling relied upon by Mr. Shah was under the Mahomedan Law where a marriage is considered to be a contract and, therefore, the principles of Contract Law were made applicable by the learned Single Judge in deciding the matter. Under the Hindu Law the marriage is not a contract but is a sacrament. Therefore, the principles of the Contract Act cannot apply. In any event, in the instant case, the jurisdiction of the Court has to be decided only with reference to Clause 12 of the Letters Patent which I have cited heretofore and the question is whether any part of the cause of action has accrued within the local limits of this Court.

25. Mr. Shah next submitted that his Court would have jurisdiction inasmuch as a breach of the obligation to maintain the Petitioner was committed in Bombay. Mr. Shah contended that under the Hindu Adoptions and Maintenance Act there was an obligation on the part of the husband to maintain his wife during the subsistence of the matrimonial relations and even after those relations had been severed. According to Mr. Shah since that obligation had been repudiated or breached by the 1st Respondent in Bombay, this Court would have jurisdiction. Mr. Shah has relied upon a ruling of the Punjab High Court in the case of [Firm Hira Lal Girdhari Lal and Another Vs. Baij Nath Hardial Khatri](#), It will suffice to cite the Head Note :--

"Where territorial jurisdiction of the Court is to be determined on the ground that the price of goods was payable within its jurisdiction, the Court should find as a fact, whether the money was agreed expressly or impliedly to be paid within its territorial jurisdiction. To find this fact the Court is entitled to take into consideration the contract, its attending circumstances, the creditor's ordinary place of residence or business and the course of dealings between the parties including all the other

factors relevant in a given case. If the Court comes to the conclusion that on the facts and circumstances established in the case the amount sought to be recovered was payable within the jurisdiction of the Court, then it should proceed to entertain the suit, otherwise it has no jurisdiction to do so on the basis of this ground."

Once again it has become necessary to point out that the ruling relied upon by Mr. Shah was under Contract Act and I do not think that the observations can be made applicable to the facts of the present case.

26. Finally, Mr. Shah relied upon a ruling of the Madras High Court in the case of P. Ramanjulu v. Siva Paravathi Ammal reported in (1955) 1 M LJ 397, wherein the learned Chief Justice sitting singly was pleased to observe:--

"I agree with the learned District Munsiff that the suit in so far as it is for the recovery of maintenance is maintainable in the Court at Tirupattur because certainly a part of the cause of action arose within its limits. It was specifically alleged that the husband abandoned the plaintiffs at Tirupattur and abandonment could certainly be a part of the cause of action for a claim of maintenance. The learned counsel for the Petitioners cited to me the decision in [M. Ramalinga Iyer Vs. T.K. Jayalakshmi and Another](#), But it has no bearing on the facts of this case. In that case the marriage took place at Nagapattanam. The husband resided at Vellore and owing to the ill-treatment of her husband the wife ran away from Vellore to her father's place at Palghat. Her father-in-law was residing at Mayavaram and she filed a suit in the Court of the Subordinate Judge of Palghat against her husband for maintenance and against her father-in-law for the return of the stridhanam properties alleged to have been entrusted to him. It was held that the Palghat Court had no jurisdiction because the cause of action for the recovery of maintenance or for the redelivery of the entrusted properties did not arise at Palghat. The learned Judges overruled the contention that the common law rule of the debtor seeking out the creditor could be applied in the circumstances of the case : that is to say, treating the husband as the debtor and the wife as the creditor. I do not see how this decision can help the petitioners in any manner."

"Mr. Kailasam the learned counsel for the respondents referred maintenance to the decision of Krishnaswami Nayudu, J., in [K. Vajravelu Mudaliar Vs. Rajalakshmi Ammal](#), where the learned Judge held that as the marriage formed a part of the cause of action in a suit for maintenance, the suit for maintenance can be instituted at the place where the parties were married. It suffices to say in this case that as the abandonment of the plaintiffs is alleged to have taken place within the local limits of the Tirupattur Court the suit filed in that Court is not bad for want of jurisdiction."

I respectively agree with the observations made by the learned Chief Justice of the Madras High Court. In a suit for maintenance like the present one, the place of abandonment or desertion and cruelty is the place where the suit should be filed. The ruling of the Madras High Court in Ramanjulu's case cited heretofore is

pertinent and applicable to the facts of the present case.

27. In the instant case, the right to maintenance u/s 18 of the Hindu Adoptions and Maintenance Act is not an absolute right but is conditioned by the circumstances mentioned in Section 18. In the instant case, it is conditional upon whether the Petitioner was deserted by Respondent No. 1 by the application of the principle of constructive desertion and/or whether there was such a cruelty as to cause reasonable apprehension in the Petitioner's mind that it would be harmful or injurious for her to live with her husband i.e. Respondent No. 1. It may be repeated here that the act of desertion took place in Kalyan and that the several acts of cruelty had taken place at Calcutta, Delhi and Kalyan. At no time is it alleged in the petition that the act of desertion or any act of cruelty took place within the jurisdiction of this Court. Mr. Shah has relied upon several circumstances which I have recited heretofore. I may only point out that the draft divorce documents were delivered by Respondent No. 1 in Bombay on 17-1-1982 and the Income Tax assessment papers were sent to the Petitioner on 17th July 1980. Both these events therefore, took place after the parties had separated i.e. on 29-5-1980. Therefore, these two events could not be said to be part of the cause of action which would entitle the Petitioner to the relief maintenance. With regard to the circumstance that the child Jai was born in Bombay, it may be stated that the Petitioner remained in Bombay only for the period of delivery and sometime thereafter and that soon after the delivery she returned to the matrimonial home. Therefore, this fact cannot clothe this Court and with jurisdiction.

28. It is true that the Petitioner had obtained leave under Clause 12 of the Letters Patent from this Court on 24th March 1982. However, that fact cannot extend the jurisdiction of this Court, if initially, the Court had no jurisdiction to entertain the Petition. In this respect, I shall cite only one judgment of the Division Bench of this Court in the case of [Shiv Bhagwan Moti Ram Saraoji Vs. Onkarmal Ishar Dass and Others](#), wherein Chagla C. J. speaking for the Division Bench observed:--

"Mr. Justice Shah also made an order that the leave under Clause 12 should be revoked because the Court had no jurisdiction. With respect, it was unnecessary to revoke the leave. Because if the Court had no jurisdiction at all, no question of leave can possibly arise. The leave is only revoked when the Court has jurisdiction and the Court comes to the conclusion that, looking to the balance of convenience, leave should not have been granted. If the learned Judge meant that, as the Court had no jurisdiction, no question of granting leave arose and no leave should have been granted, then he was right."

29. Therefore, in my question, the fact that the Petitioner had obtained leave from this Court cannot affect the question of jurisdiction of this Court. If initially, this Court had no jurisdiction then, the fact whether the Petitioner had obtained leave under Clause 12 or not, would be immaterial.

30. Finally, I may states that Mr. Shah stressed that the Hindu Adoptions and Maintenance Act was a "social" legislation and, therefore, the Court ought to consider jurisdiction in favour of the wife in order to pay homage to the spirit of the legislation. The issue of jurisdiction, as I have stated earlier, has to be decided only with reference to Clause 12 of the Letters Patent and no other consideration can be taken into reckoning. I find that no part of the cause of action has accrued in Bombay , and that being the case issue will have to be answered against the Petitioner.

31. In the result, the issue whether this Court was competent to try the Petition is answered in the negative. In the circumstance, the petition is dismissed. There will be no order as to costs. The Notice of Motion will also stand dismissed with no order as to costs.

32. Petition dismissed.