**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**CIVIL REVISION PETITION NO: 311 of 2026**

**ORDER :**

This Civil Revision Petition, has been filed under Article 227 of the Constitution of India, challenging the order dated 24.10.2025 passed in I.A.No.457 of 2024 in H.M.O.P.No.35 of 2023 on the file of the Civil Judge (Senior Division) Yellamanchili.

2. Heard Sri B.Abhay Siddanth Mootha, learned counsel for the petitioner and perused the material on record.

## I. Facts :-

3. H.M.O.P. No.35 of 2023 was filed by the present petitioner, who is the husband of the respondent, represented by his power of attorney holder (father). In the said H.M.O.P., I.A. No.457 of 2024 was filed by the petitioner seeking permission to appear before the learned Senior Civil Judge through video conferencing i.e., Zoom, WhatsApp or Skype, as he was unable to attend the Court in person for the purpose of reconciliation.

4. The petitioner is residing in Texas, USA. Due to the non-availability of leave, as his employer did not permit him to travel to India, he was unable to attend the Court proceedings personally and

therefore requested permission to participate in the reconciliation proceedings through video conferencing in the matrimonial dispute.

5. The respondent/wife filed counter denying the material allegations and contended that the application was liable to be dismissed, as no bonafide reasons or sufficient cause had been shown to permit the petitioner to appear through virtual mode for reconciliation. She further contended that the petitioner ought to attend the reconciliation proceedings in person.

6. The learned Trial Court dismissed the petition. It, recorded that the petitioner's General Power of Attorney holder was present and represented by counsel on 25.10.2024, on which date it was stated that the petitioner would come to India in April, 2025. On that basis, the learned Trial Court inferred that the petitioner was in a position to travel to India and, therefore, found no justification to permit his appearance through video conferencing, notwithstanding the fact that he did not ultimately come to India in April, 2025. The learned Trial Court was not inclined to grant permission to attend the proceedings through virtual mode. The learned Trial Court referred to the judgment of this Court in ***Nerella Chiranjeevi Arun Kumar vs. Nerella Akula Sowjanya***[1] which was cited before it by the learned counsel for the petitioner, wherein the husband was permitted to participate in the reconciliation

[1] 2019 Supreme (AP) 357

proceedings through Skype technology, but did not permit observing that there was possibility for the petitioner to come to India.

## II. Submissions of the learned counsel for the petitioner :-

7. Learned counsel for the petitioner submitted that the impugned order cannot be sustained in the eyes of law. He submitted that in the era of technology, the refusal of the learned Trial Court to permit the petitioner to attend the proceedings through video conferencing is unsustainable, and the technology ought to be effectively utilized, particularly in the present case where the petitioner/husband is residing in Texas, USA, and owing to the nature of his employment and the difficulty in obtaining leave, he is unable to travel to India and attend the Court personally.

8. Learned counsel submitted that video conferencing is permissible and can be availed at any stage of the proceedings, including matrimonial proceedings, which are judicial in nature. According to him, such facility can be extended even at the stage of reconciliation. He placed reliance on the “Rules for Video Conferencing for Courts,2023” as applicable to the High Court of Andhra Pradesh (in short, “the Rules,2023”), issued *vide* Roc. No.415/2020-CPS, dated 10.06.2023. He submitted that Rule 3(i) clearly provides that *“Video conferencing facilities may be used at all stages of judicial proceedings and*

*proceedings conducted by the Court."* He submitted that the expression "Court" is defined under Rule 2(iv) of the Rules,2023 to mean *"a physical Court and a virtual Court or a Tribunal."* He further referred to Rule 3(iii), which stipulates that *"all relevant statutory provisions applicable to judicial proceedings, including the provisions of the CPC, CrPC, Contempt of Courts Act, 1971, the Indian Evidence Act, 1872 (hereinafter referred to as "the Evidence Act"), the Information Technology Act, 2000 (hereinafter referred to as "the I.T. Act"), and other relevant Acts and Rules, shall apply to proceedings conducted through video conferencing"*. On the strength of the aforesaid provisions, he submitted that the video conferencing is permissible at all stages of judicial proceedings. The matrimonial proceedings being judicial proceedings, Rules 2023 would apply and all stages in matrimonial proceedings would necessarily include the stage of reconciliation conducted before a Court.

9. Learned counsel for the petitioner submitted that the Rules, 2023 governing Video Conferencing were framed in the exercise of the powers conferred upon the High Court under Article 227 of the Constitution of India. So, Rules,2023 are binding on the learned Trial Court, as they have been promulgated for regulating the practice and procedure of proceedings before the subordinate Courts. According to the learned counsel, the impugned order suffers from non-compliance with the directions contained in the Rules, 2023 and is

thus, liable to be set aside in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

10. Learned counsel further contended that the judgment of this Court in ***Nerella Chiranjeevi Arun Kumar*** (supra) was binding on the learned Trial Court. In the said decision, it was categorically held that even for the purpose of reconciliation, the use of video conferencing technology would have to be considered and weighed in favour of the person seeking such facility, having regard to the advancements in technology and the circumstances pleaded. He submitted that the said judgment was required to be followed by the learned Trial Court, which was bound by the judicial pronouncement of the High Court. He further submitted that unless the said judgment is set aside by a superior Court or declared to be ***per incuriam***, it continues to hold the field, and retains its binding nature. He reiterated that the decision in ***Nerella Chiranjeevi Arun Kumar*** (supra), not having been set aside or declared ***per incuriam***, should be followed by this Court as well, it being a decision rendered by a Co-ordinate Bench.

11. The attention of the learned counsel for the petitioner was drawn to Ground No.5 of the memorandum of the Civil Revision Petition, which reads as under:

> "5. The Court below failed to appreciate the well considered Judgement of the Hon'ble Apex Court in ***Santhini Vs. Vijaya Venkatesh*** reported in ***2018 1 SCC 1***, where in the Hon'ble Supreme Court had held that video Conference can be permitted for reconciliation through video conference and hence committed gross illegality and irregularities in dismissing the Application."

12. The attention of the learned counsel was further drawn to the judgment of the Hon'ble Apex Court in ***Santhini vs. Vijaya Venkatesh***[2], as referred to in paragraph No.5 of the grounds of the Civil Revision Petition and it was pointed out to him that, what has been reproduced in paragraph No.5 of the ground does not correctly reflect the law declared in ***Santhini*** (supra), but that was a minority view. It was pointed out to the learned counsel that the majority view expressed in ***Santhini*** (supra), insofar as the issue of video conferencing in matrimonial matters at the stage of reconciliation is concerned, is that video conferencing may be resorted to only after efforts at settlement or reconciliation have failed. The Hon'ble Supreme Court had held after the settlement fails, that when both parties file a joint application or their respective consent memoranda seeking

[2] (2018) 1 SCC

hearing through video conferencing before the concerned Family Court, the Court may, in its discretion, permit such request, subject to the conditions stipulated in the said judgment.

13. Paragraph No.58 of ***Santhini*** (supra) deserves reproduction as under :

> *"**58.** In view of the aforesaid analysis, we sum up our conclusion as follows:*
>
> ***58.1**. In view of the scheme of the 1984 Act and in particular Section 11, the hearing of matrimonial disputes may have to be conducted in camera.*
>
> ***58.2**. **After the settlement fails** and when a joint application is filed or both the parties file their respective consent memorandum for hearing of the case through videoconferencing before the Family Court concerned, it may exercise the discretion to allow the said prayer.*
>
> ***58.3. After the settlement fails**, if the Family Court feels it appropriate having regard to the facts and circumstances of the case that videoconferencing will subserve the cause of justice, it may so direct.*
>
> ***58.4.** In a transfer petition, videoconferencing cannot be directed.*
>
> ***58.5.** Our directions shall apply prospectively.*

***58.6.*** *The decision in Krishna Veni Nagam )(2017) under section 34 of the Act,1996 SCC 150) is overruled to the aforesaid extent."*

14. Learned counsel for the petitioner then submitted that, due to an inadvertent mistake, the minority view expressed in ***Santhini*** (supra) was quoted in paragraph No.5 of the memorandum of grounds and there was no intention to misquote or misrepresent the law laid down by the Hon'ble Apex Court. He finally conceded that what is stated in Ground No.5 of the memorandum does not reflect the law as laid down in ***Santhini*** (supra), but that was only the minority view expressed in ***Santhini*** (supra).

15. Learned counsel for the petitioner then submitted that the decision in ***Santhini*** (supra) is not applicable to the present case and cannot be pressed into service. He submitted that subsequent to the said judgment, the Andhra Pradesh High Court Video Conferencing Rules, 2023 have come into force. In view of Rule 3(i), which expressly provides that *"Video Conferencing facilities may be used at all stages of judicial proceedings and proceedings conducted by the Court,"* the legal position, as in ***Santhini*** (supra), according to him, now stands altered. The very basis on which the judgment in ***Santhini*** (supra) proceeded no longer survives, inasmuch as the Rules, 2023

specifically authorize the use of video conferencing at all stages of judicial proceedings. Reconciliation in matrimonial matters, being one of the stages of such judicial proceedings before a Court, would also fall within the ambit of the said Rule. Therefore, learned counsel submitted that in view of the statutory framework introduced by the Rules, 2023, video conferencing is permissible even at the stage of reconciliation, and consequently, the law in ***Santhini*** (supra) cannot operate as a bar in the State of Andhra Pradesh to deny such facility of video conferencing in matrimonial matters even the stage of reconciliation.

16. Learned counsel for the petitioner further submitted that the decision in ***Santhini*** (supra) arose out of a transfer petition and, therefore, according to him, the observations made therein do not constitute a declaration of law binding under Article 141 of the Constitution of India. He submitted that the said case pertained to proceedings under the Family Courts Act, whereas the present matter is pending before a Civil Court and not before a Family Court. On that premise, he submitted that the principle of law laid down in ***Santhini*** (supra) would not govern the present proceedings and is distinguishable on facts as well as on the statutory framework applicable.

17. Learned counsel for the petitioner further submitted that the decision of this Court in ***Mohammad Razik Shaik vs. Sufia Sultana Bano Mohammad***[3] would also not be applicable to the present case. He submitted that in ***Mohammad Razik Shaik*** (supra), this Court, upon consideration of the judgments in ***Santhini*** (supra), ***Nerella Chiranjeevi Arun Kumar*** (supra), ***G.Shrilakshmi vs. Anirudh Ramkumar***[4] ***and batch*** (decided on 18.10.2024), as well as certain decisions of the Madras High Court and other High Courts, held that video conferencing is not permissible at the stage of reconciliation in matrimonial matters before the Family Courts, and further held that only after the efforts at reconciliation and settlement have failed, video conferencing may be resorted to, upon a joint application by the parties or upon consent memoranda filed by both counsel representing the husband and wife, subject to the discretion of the Court. However, learned counsel submitted that the decision in ***Mohammad Razik Shaik*** (supra) cannot be relied upon for *inter-alia* the following principal reasons:

**(i)** The Andhra Pradesh High Court Video Conferencing Rules, 2023 were not brought to the notice of this Court while deciding ***Mohammad Razik Shaik*** (supra);

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[3] 2025 SCC OnLine AP 314
[4] C.R.P.No.1194 of 2024, dated 18.10.2024

**(ii)** The applicability of the judgment in ***Santhini*** (supra), after the coming into force of the Rules, 2023, in the State of Andhra Pradesh was not considered;

**iii).** This Court did not hold that the earlier judgment of the Co-ordinate Bench in ***Nerella Chiranjeevi Arun Kumar*** (supra) was rendered ***per incuriam*** or that it fell within the doctrine of ***sub silentio***. In the absence of any such declaration, the judgment in ***Nerella Chiranjeevi Arun Kumar*** (supra) continued to be binding on the Co-ordinate Bench in ***Mohammad Razik Shaik*** (supra) and, therefore, ought to have been followed.

## III. Points for consideration :-

18. The following points are for consideration and determination :

***(A).*** *Whether Video Conferencing is permissible in a matrimonial proceeding at the stage of reconciliation ?*

***(B).*** *Whether the judgment of the Hon'ble Apex Court in* ***Santhini*** *(supra) would be inapplicable to the State of Andhra Pradesh, in view of the Andhra*

*Pradesh High Court "Rules for Video Conferencing for Courts,2023" ?*

***(C)*** *Whether the impugned order dated 24.10.2025 passed in I.A.No.457 of 2024 in H.M.O.P.No.35 of 2023, deserves to be set aside or maintained ?*

## IV. Consideration on points 'A' and 'B' :-

19. The aforesaid points "A & B" are connected, which are being considered together.

20. The main emphasis of the learned counsel for the petitioner is on the Andhra Pradesh High Court Video Conferencing Rules, 2023. It was submitted that, in view of Rule 3(i) of the Rules, 2023, video conferencing is permissible at all stages of judicial proceedings and, therefore, in matrimonial proceedings, the stage of reconciliation would also be covered within the ambit of the said Rule. So, video conferencing is permissible even at the stage of reconciliation and in view of, such Rule,2023, the judgment of the Hon'ble Apex Court in ***Santhini*** (supra) would no longer be applicable in the State of Andhra Pradesh, and that the binding force of the said judgment stands diminished.

21. Further, the Rules, 2023 have been framed under Article 227 of the Constitution of India, in exercise of the High Court's power of superintendence over the Courts and Tribunals in relation to which it exercises jurisdiction, and therefore the learned Trial Court was bound to adhere to the said Rules and further that ***Santhini*** (supra) arose out of a transfer petition and was rendered in the context of proceedings under the Family Courts Act, and hence is distinguishable and the law declared therein cannot be followed as the present case is from the Court of Civil Judge though in a family dispute.

22. All the aforesaid contentions are misconceived and deserve rejection for the discussion to follow, but before adverting to the aforesaid contentions specifically, on the point of Rules 2023 and its effect on the judgment in ***Santhini*** (supra), this Court considers it appropriate to refer to the judgment in ***Mohammad Razik Shaik*** (supra), in which ***Santhini*** (supra) was elaborately referred and the relevant portions were extracted and discussed. This Court deems it appropriate to refer to the relevant paragraphs from ***Mohammad Razik Shaik*** (supra).

23. The moot question that arose for consideration in ***Mohammad Razik Shaik*** (supra) is set out in paragraph No.12 thereof, which reads as under:

> *"12. Whether in matrimonial disputes, Family Court disputes, at the stage of reconciliation, appearance of the parties or any of them for reconciliation process, is legally permissible through Video Conferencing ? and if it is permissible under what circumstances and conditions, if any ?"*

24. This Court elaborately considered the law on the aforesaid aspect, namely, the permissibility of the use of video conferencing, and the same was discussed in paragraph Nos.13, 14, 19 and 20 of ***Mohammad Razik Shaik*** (supra), which read as under:

> "**13.** The law on the aforesaid aspect, i.e., use of video conferencing, i.e., technology, at the stage of reconciliation process and also afterwards, if the reconciliation fails, and after conclusion of the settlement proceedings, has been well settled by the Hon'ble Apex Court in *Santhini* (supra). The Hon'ble Apex Court considered its previous pronouncements on the use of technology, video conferencing etc; the object and scope and scheme of the Family Courts Act, the importance of reconciliation; the right of a woman in such reconciliation proceedings in a family dispute pending in the Family Court; right of privacy; incamera proceedings and **in para-58 of *Santhini* (supra) the Hon'ble Apex Court by majority judgment, recorded the following principles of law:**
>
> "**58.** In view of the aforesaid analysis, we sum up our conclusion as follows:
>
> **58.1.** In view of the scheme of the 1984 Act and in particular Section 11, the hearing of matrimonial disputes may have to be conducted in camera.
>
> **58.2. After the settlement fails** and when a joint application is filed or both the parties file their respective consent memorandum for hearing of the case through videoconferencing before the Family Court concerned, it may exercise the discretion to allow the said prayer.
>
> **58.3. After the settlement fails**, if the Family Court feels it appropriate having regard to the facts and circumstances of the case that videoconferencing will subserve the cause of justice, it may so direct.
>
> **58.4.** In a transfer petition, videoconferencing cannot be directed.
>
> **58.5.** Our directions shall apply prospectively.

**58.6.** The decision in *Krishna VeniNagam* [*Krishna VeniNagam* v. *Harish Nagam*, (2017) 4 SCC 150 : (2017) 2 SCC (Civ) 394] is overruled to the aforesaid extent."

**14.** The aforesaid conclusions of the Hon'ble Apex Court, as summed up, show that the hearing of the matrimonial disputes has to be conducted in camera. In camera proceedings are to be conducted if the Court considers it appropriate and if any of the parties, seeks in camera proceedings, then, necessarily. The confidentiality of the proceedings is imperative. **After the settlement fails and when a joint application is filed or both the parties file their respective consent memorandum for hearing of the case through videoconferencing** before the Family Court concerned, it may exercise the discretion to allow the said prayer. In para-58.3 of *Santhini* (supra), the Hon'ble Apex Court observed that 'after the settlement fails', if the Family Court feels it appropriate having regard to the facts and circumstances of the case that videoconferencing will subserve the cause of justice, it may so direct. From the aforesaid, the law as settled is that direction for hearing of the case through videoconferencing may be given by the Family Court, subject to conditions, as mentioned in para-58 of *Santhini* (supra). But, that is after the settlement fails. **The present is a case at the stage of settlement/reconciliation. So, it is not a case after the settlement has failed. The request in the present case, for videoconferencing, is for the purpose of reconciliation/settlement proceedings, by the husband/petitioner.**

**19.** So, in *Santhini* (supra) in clear words it has been laid down that the videoconferencing may be permitted only after the settlement fails, on the joint application of the parties or on their respective consent memo, if the Family Court feels it appropriate. **So, the videoconferencing at the stage of reconciliation/settlement process is not permissible at all. The question of consent of both the parties is also of no consideration or relevance, at the stage of the reconciliation.**

**20.** The aforesaid is **the majority view and thus, the law laid down**."

25. In ***Mohammad Razik Shaik*** (supra), this Court also held that "this Court is to follow the majority view, which is the law laid

down" and further observed that in ***Santhini*** (supra), the judgment of the Hon'ble Apex Court considered its previous judgments on the point of Video Conferencing, use of technology etc., but distinguished those judgments on the ground that those proceedings were different from matrimonial proceedings and could not be regarded as precedents for the proposition that the Video Conferencing can be one of the modes to regulate the matrimonial proceedings. Paragraph No.24 of ***Mohammad Razik Shaik*** (supra) is as under :

> "**24.** In respect of the advantages of the videoconferencing and speedy decision, the majority view also considered the same and observed in para-33 that the pronouncement with respect to the use of technology, modes of videoconferencing etc., in the judgments referred by it, on different points, on different controversies, different from matrimonial proceedings and **those judgments could not be regarded as precedents for the proposition that the videoconferencing can be one of the modes to regulate the matrimonial proceedings. Para-33 of *Santhini* (supra) reads as under:**
>
> > "**33.** The aforesaid pronouncements, as we find, are absolutely different from a controversy which is involved in matrimonial proceedings which relate to various aspects, namely, declaration of marriage as a nullity, dissolution of marriage, restitution of marriage, custody of children, guardianship, maintenance, adjudication of claim of stridhan, etc. The decisions that have been rendered cannot be regarded as precedents for the proposition that videoconferencing can be one of the modes to regulate matrimonial proceedings."

26. In ***Mohammad Razik Shaik*** (supra), this Court considered ***Nerella Chiranjeevi Arun Kumar*** (supra) and ***G.Shrilakshmi*** (supra) in paragraph Nos.25 & 26 thereof, which

read as under, and observed that those cases were of no help and could not be relied upon for the considerations made in Paragraph Nos.25.2 to 25.5 of ***Mohammad Razik Shaik*** (supra) :

> "**25.** I now proceed to consider the judgment cited by the learned counsel for the petitioner.
>
> 25.1. In *Nerella ChiranjeeviArun Kumar* (supra), the civil revision petition was filed challenging the Order dated 23.04.2019 passed in I.A. No. 991 of 2018 in FCOP No. 634 of 2017. The consideration was, whether the petitioner therein could be allowed to be represented by General Power of Attorney Holder for reconciliation, when the petition was dismissed and on application under Order 9 Rule 9 CPC to set aside the dismissal order and to restore the main petition and to permit the GPA holder to contest the reconciliation proceedings was filed. The learned single Judge, considering the previous pronouncements, mainly on the point of power of attorney and appearance through power of attorney holder, observed that since the husband was working in USA and it would be difficult to get leave from his company, and also noting that the husband requested for process of reconciliation through electronic devices, i.e., Skype, whatsapp, true caller etc., whereas the wife was insisting the personal appearance of the husband, further observed that during the conciliation proceedings, it could not be necessary for the husband to come all the way from US, and with the technology in the information sector was available, therefore, the party seeking such benefit, be allowed the appearance by using the technology to reduce the cost of litigation and save the precious time for the purpose of reconciliation.
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> *25.2.* ***Nerella ChiranjeeviArun Kumar*** **(supra)** was decided on 13.09.2019, however, the judgment of the Hon'ble Apex Court in *Santhini* (supra) which was decided on 09.10.2017 appears not to have been brought to the notice of the learned single Judge, as it does not find mention.
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> 25.3. **In *G. Shrilakshmi* (supra)**, which was a case under Section 13B of the Hindu Marriage Act before the Family Court, the learned single Judge of the Madras High Court, highlighting the importance of the virtual proceedings, referring to the judgments of the Hon'ble Apex Court in *State of Maharashtra* v. *Dr.Praful Dubey*[5], *Amardeep Singh* v. *Harveen Kaur*[6], *AnuradhaBhasin* v. *Union of India*[7] and others issued direction to

the Principal Family Court, Chennai, to dissolve the marriage between the parties therein without insisting the physical presence of the parties, permitting the respective power of attorney of the parties to present the petition. The direction was also issued that the Family Courts shall not insist physical presence of the spouses at the time of presenting the petition at the first instance and for future hearings, and also that the parties can be present through virtual mode from their respective places and the place of location, identity of the person to be confirmed with relevant documents. It was further directed that the Court can verify with the parties appearing through virtual mode as to the petition, proof affidavit, documents produced and record the same as evidence on satisfaction and to pass appropriate orders. The Madras High Court observed that virtual proceedings provide an opportunity to modernize the system by making it more affordable and citizen friendly, enabling the aggrieved to access justice from any part of the country in the world. Thus, the Family Court, to ensure that such system of conducting the proceedings through videoconferencing was put to usage, without insisting the presence of the petitioner even from the time of first presentation till the conclusion of the proceedings, direction was given to the Family Court, not to raise technical objections and insist on physical appearance of the parties at any stage.

25.4. Para-29 of *G. Shrilakshmi* (supra) upon which learned counsel for the petitioner placed reliance, is as under:

"29. Virtual proceedings provide an opportunity to modernize the system by making it more affordable and citizen friendly, enabling the aggrieved to access justice from any part of the country in the world. Thus the Family Court to ensure that such a system of conducting the proceedings through video conferencing is put to usage without insisting the presence of petitioner even from the time of first presentation till the conclusion of proceedings. The Family Court henceforth not to raise technical objections and insist on physical appearance of petitioner/parties at any stage."

**25.5. A reading of the judgment in *G. Shrilakshmi* (supra) shows that the judgment of the Hon'ble Apex Court in *Santhini* (supra) was not taken note of.**

26. For the aforesaid consideration made in particular paras-25.2 to 25.5 (supra), the judgments in *NerellaChiranjeeviArun Kumar* (supra) and

*G. Shrilakshmi* (supra) are of no help **to the petitioner and cannot be relied upon.**"

27. In ***Mohammad Razik Shaik*** (supra), this Court also considered the judgment of the Hon'ble Apex Court in ***Anjali Brahmawar Chauhan vs. Navin Chauhan***[5]. Subsequent to ***Santhini*** (supra), in the said case of ***Anjali*** (supra), the Hon'ble Apex Court permitted the facility of video conferencing in a matrimonial matter arising out of a transfer petition, having regard to the then prevailing extraordinary circumstances of the COVID-19 pandemic. This Court further noted that in ***Anjali Brahmawar Chauhan*** (supra), the review petition filed seeking review of the judgment in ***Santhini*** (supra) was dismissed and while dismissing the review, the Hon'ble Apex Court clearly observed that, in the normal course, it would not have directed the use of video conferencing in matrimonial matters, in view of the law declared in ***Santhini*** (supra). Paragraph Nos.27 and 28 of ***Mohammad Razik Shaik*** (supra) read as under:

"**27.** I may also refer to the judgment of the Hon'ble Apex Court in *Anjali Brahmawar Chauhan* v. *Navin Chauhan*. In the said case, the transfer petition of the petitioner was dismissed on account of the fact that no serious inconvenience would be caused to the petitioner for travelling between Gautambudh Nagar, U.P. to Saket, New Delhi. The petitioner filed review petition on the ground that there was no videoconferencing facility at Gautambudh Nagar, District Courts.

[5] (2021) 16 SCC 501

Another ground was taken that videoconferencing was not permissible in matrimonial matters in accordance with the judgment in *Santhini* (supra). The Hon'ble Apex Court dismissed the review petition. However, due to the ongoing Pandemic situation at that time and the physical functioning of the Courts had been stopped since March 2020, and the proceedings of all Courts were being conducted only through videoconferencing, the Family Court was directed to conduct trial through videoconferencing. The Hon'ble Apex Court, however, observed that in the normal course, it would not have directed videoconferencing in respect of matrimonial matters as per the judgment of the Hon'ble Apex Court, in *Santhini* (supra).

**28.** Paragraph Nos. 2 to 4 of *Anjali Brahmawar Chauhan* (supra) are as under:

"**2.** This review petition has been filed by the petitioner on the ground that there is no videoconferencing facility at Gautambudh Nagar, District Courts. Another ground in the review petition is that videoconferencing is not permissible in matrimonial matters in accordance with the judgment of this Court dated 9-10-2017 in *Santhini* v. *VijayaVenketesh* [*Santhini* v. *VijayaVenketesh*, (2018) 1 SCC 1 : (2018) 1 SCC (Civ) 1 (three-Judge Bench)].

**3.** Notice was issued in the review petition on 20-3-2018 [*Anjali Brahmawar Chauhan* v. *Navin Chauhan*, 2018 SCC OnLine SC 3652]. **Due to the ongoing Pandemic, physical functioning of the courts has been stopped** since March 2020. Proceedings in all courts are being conducted only through videoconferencing. **In the normal course we would not have directed videoconferencing in respect of matrimonial matters as per the judgment of this Court mentioned above. However, in the present situation** where all proceedings are conducted through videoconferencing, we direct the Family Court, District Gautambudh Nagar, U.P. to conduct the trial through videoconferencing.

**4.** The review petition is dismissed."

28. Learned counsel for the petitioner laid much emphasis that in view of the Rules,2023, the Video Conferencing in the State of

Andhra Pradesh is permissible in the proceedings before the learned Family Court/ Civil Court in matrimonial proceedings at the stage of reconciliation as well. The contention raised was that in view of those Rules, 2023, the judgment of Hon'ble Apex Court in ***Santhini*** (supra) shall not be applicable in the State of Andhra Pradesh. He submitted that ***Santhini*** (supra) is prior to the framing of the Rules, 2023 and consequently, after the Rules,2023, the position in law has changed in Andhra Pradesh. Those Rules were framed under Article 227 of Constitution of India, so had to be given affect to by the learned Trial Court which were framed in exercise of supervisory power and jurisdiction over the trial Court. He submitted that the judgment of this Court in ***Mohammad Razik Shaik*** (supra) followed the Supreme Court judgment in ***Santhini*** (supra), but did not consider the Rules, 2023 and consequently, ***Mohammad Razik Shaik*** (supra) is *per incuriam;* also for the reason that in ***Mohammad Razik Shaik*** (supra), this Court did not hold the previous judgment of the Co-ordinate Bench in ***Nerella Chiranjeevi Arun Kumar*** (supra) as per *per incuriam,* so, without holding that, it was not open for the Co-ordinate Bench to take a contrary view and consequently ***Mohammad Razik Shaik*** (supra) is not to be followed in the present case.

29. The argument of the petitioner's counsel is that the very basis of the judgment of the Hon'ble Apex Court in ***Santhini*** (supra) has been taken way by the Rules,2023, so as to make it ineffective for its applicability in the State of Andhra Pradesh.

30. So far as the Andhra Pradesh High Court Rules for Video Conferencing, 2023 are concerned, those have been framed in the exercise of the power under Article 227 of Constitution of India.

31. Article 227 of Constitution of India reads as under :

> "**227. Power of superintendence over all courts by the High Court**.—[4][(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.]
>
> (2) Without prejudice to the generality of the foregoing provisions, **the High Court may**—
>
> (a) call for returns from such courts;
> **(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts**; and
> (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.
>
> (3) The High Court may also settle tablet of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:
>
> **Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force,** and shall require the previous approval of the Governor.
>
> (4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces."

32. A bare reading of Article 227, shows that Clause (2) provides that the High Court may make and issue general rules and

prescribe forms for regulating the practice and proceedings of such Courts i.e., the Court and Tribunal throughout the territories in relation to which it exercises jurisdiction.

33. The judgment in ***Santhini*** (supra) is on the Family Courts Act,1984/Hindu Marriage Act. Section 11 of the Family Courts Act,1984 provides proceedings to be held in camera in every suit or proceedings to which the Family Courts Act applies. The proceedings may be held in camera if the Family Court so desires, and shall be so held if either party so desires. In ***Santhini*** (supra), the Hon'ble Apex Court elaborately discussed Section 11 of the Family Courts Act, 1984 and the rights of both parties, and observed that the said provision, being statutory in nature, mandates that proceedings be conducted in camera, ensuring confidentiality, which is imperative in matrimonial disputes involving adversarial issues between the parties. The Hon'ble Apex Court also considered Section 22 of the Hindu Marriage Act, which also provides that *"every proceeding under this Act shall be conducted in camera"***.** Further, the reconciliatory measures are to be taken at the first instance and the emphasis was on the efforts for reconciliation, failing which, the Court should proceed with adjudication.

34. At the stage of reconciliation/settlement process, in ***Santhini*** (supra), the Hon'ble Apex Court in detail discussed the

position for use of Video Conferencing, only after reconciliation fails, in paragraphs-47 to 56, which are as under:

> "**47.** The language employed in Section 11 of the 1984 Act is absolutely clear. It provides that if one of the parties desires that the proceedings should be held in camera, the Family Court has no option but to so direct. This Court, in exercise of its jurisdiction, cannot take away such a sanctified right that law recognises either for the wife or the husband. That apart, **the Family Court has the duty to make efforts for settlement. Section 23(2) of the 1955 Act mandates for reconciliation.** The language used under Section 23(2) makes it an obligatory duty on the part of the court at the first instance in every case where it is possible, to make every endeavour to bring about reconciliation between the parties where it is possible to do so consistent with the nature and circumstances of the case. There are certain exceptions as has been enumerated in the proviso which pertain to incurably of unsound mind or suffering from a virulent and incurable form of leprosy or suffering from venereal disease in a communicable form or has renounced the world by entering any religious order or has not been heard of as being alive for a period of seven years, etc. These are the exceptions carved out by the legislature. The Court has to play a diligent and effective role in this regard.
>
> **48. The reconciliation requires presence of both the parties at the same place and the same time so as to be effectively conducted. The spatial distance will distant the possibility of reconciliation because the Family Court Judge would not be in a position to interact with the parties in the manner as the law commands.** By virtue of the nature of the controversy, it has its inherent sensitivity. The Judge is expected to deal with care, caution and with immense sense of worldly experience absolutely being conscious of social sensibility. Needless to emphasise, this commands a sense of trust and maintaining an atmosphere of confidence and also requirement of assurance that the confidentiality is in no way averted or done away with. There can be no denial of this fact. It is sanguinely private. Recently, in *K.S. Puttaswamy* v. *Union of India* [*K.S. Puttaswamy* v. *Union of India*, (2017) 10 SCC 1], this Court, speaking through one of us (Chandrachud, J.), has ruled thus : (SCC pp. 498-99, para 298)
>
> "*298*. …The intersection between one's mental integrity and privacy entitles the individual freedom of thought, the freedom to believe in what

is right, and the freedom of self-determination. When these guarantees intersect with gender, they create a private space which protects all those elements which are crucial to gender identity. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual."

And again : (SCC p. 499, para 299)

"*299*. Privacy represents the core of the human personality and recognises the ability of each individual to make choices and to take decisions governing matters intimate and personal."

**49.** Felix Frankfurter, J. in *Schulte Inc.* v. *Gangi* [*Schulte Inc.* v. *Gangi*, 1946 SCC OnLine US SC 81 : 90 L Ed 1114 : 328 US 108 (1946)], has stated that the policy of a statute should be drawn out of its terms as nourished by their proper environment and not like nitrogen out of the air. Benjamin N. Cardozo, J. in *Hopkins Federal Savings and Loan Assn.* v. *Cleary* [*Hopkins Federal Savings and Loan Assn.* v. *Cleary*, 1935 SCC OnLine US SC 186 : 80 L Ed 251 : 296 US 315 (1935)], has opined that when a statute is reasonably susceptible of two interpretations, the Court has to prefer the meaning that preserves to the meaning that destroys.

**50.** The command under Section 11 of the 1984 Act confers a right on both the parties. It is statutory in nature. The Family Court Judge who is expected to be absolutely sensitive has to take stock of the situation and can suomotu hold the proceedings in camera. The Family Court Judge is only meant to deal with the controversies and disputes as provided under the 1984 Act. He is not to be given any other assignment by the High Court. **The in-camera proceedings stand in contradistinction to a proceeding which is tried in court.** When a case is tried or heard in court, there is absolute transparency. Having regard to the nature of the controversy and the sensitivity of the matter, it is desirable to hear in court various types of issues that crop up in these types of litigations. The Act commands that there has to be an effort for settlement. The legislative intendment is for speedy settlement. The counsellors can be assigned the responsibility by the court to counsel the parties. That is the schematic purpose of the law. The confidentiality of the proceedings is imperative for these proceedings.

**51. The procedure of videoconferencing which is to be adopted when one party gives consent is contrary to Section 11 of the 1984 Act. There is no provision that the matter can be dealt with by the Family**

**Court Judge by taking recourse to videoconferencing. When a matter is not transferred and settlement proceedings take place which is in the nature of reconciliation, it will be well-nigh impossible to bridge the gap. What one party can communicate with other, if they are left alone for some time, is not possible in videoconferencing and if possible, it is very doubtful whether the emotional bond can be established in a virtual meeting during videoconferencing. Videoconferencing may create a dent in the process of settlement.**

**52.** The two-Judge Bench [*Krishna VeniNagam* v. *Harish Nagam*, (2017) 4 SCC 150 : (2017) 2 SCC (Civ) 394] had referred to the decisions where **the affirmative rights meant for women have been highlighted in various judgments. We have adverted to some of them to show the dignity of woman and her rights and the sanctity of her choice. When most of the time, a case is filed for transfer relating to matrimonial disputes governed by the 1984 Act, the statutory right of a woman cannot be nullified by taking route to technological advancement and destroying her right under a law, more so, when it relates to family matters. In our considered opinion, dignity of women is sustained and put on a higher pedestal if her choice is respected. That will be in consonance with Article 15(3) of the Constitution**.

**53.** In this context, we may refer to the fundamental principle of necessity of doing justice and trial in-camera. The nine-Judge Bench in *Naresh Shridhar Mirajkar* v. *State of Maharashtra* [*Naresh Shridhar Mirajkar* v. *State of Maharashtra*, AIR 1967 SC 1], after enunciating the universally accepted proposition in favour of open trials, expressed : (AIR pp. 8-9, para 21)

"*21.* … While emphasising the importance of public trial, we cannot overlook the fact that the primary function of the judiciary is to do justice between the parties who bring their causes before it. If a Judge trying a cause is satisfied that the very purpose of finding truth in the case would be retarded, or even defeated if witnesses are required to give evidence subject to public gaze, is it or is it not open to him in exercise of his inherent power to hold the trial in camera either partly or fully? If the primary function of the court is to do justice in causes brought before it, then on principle, **it is difficult to accede to the proposition that there can be no exception to the rule that all causes must be tried in open court**. If the principle that all trials before courts must be held in public was treated as inflexible and universal and it is held that it admits of no exceptions whatever, cases may arise where by following the principle, justice itself

may be defeated. That is why we feel no hesitation in holding that the High Court has inherent jurisdiction to hold a trial in camera if the ends of justice clearly and necessarily require the adoption of such a course. It is hardly necessary to emphasise that this inherent power must be exercised with great caution and it is only if the court is satisfied beyond a doubt that the ends of justice themselves would be defeated if a case is tried in open court that it can pass an order to hold the trial in camera; but to deny the existence of such inherent power to the court would be to ignore the primary object of adjudication itself. **The principle underlying the insistence on hearing causes in open court is to protect and assist fair, impartial and objective administration of justice; but if the requirement of justice itself sometimes dictates the necessity of trying the case in camera, it cannot be said that the said requirement should be sacrificed because of the principle that every trial must be held in open court**."

**54.** The principle of exception that the larger Bench enunciated is founded on the centripodal necessity of doing justice to the cause and not to defeat it. **In matrimonial disputes that are covered under Section 7 of the 1984 Act where the Family Court exercises its jurisdiction, there is a statutory protection to both the parties and conferment of power on the court with a duty to persuade the parties to reconcile. If the proceedings are directed to be conducted through videoconferencing, the command of the section as well as the spirit of the 1984 Act will be in peril and further the cause of justice would be defeated**.

**55.** A cogent reflection is also needed as regards the perception when both the parties concur to have the proceedings to be held through videoconferencing. In this context, the thought and the perception are to be viewed through the lens of the textual context, legislative intent and schematic canvas. The principle may have to be tested on the bedrock that courts must have progressive outlook and broader interpretation with the existing employed language in the statute so as to expand the horizon and the connotative expanse and not adopt a pedantic approach.

**56.** We have already discussed at length with regard to the complexity and the sensitive nature of the controversies. The statement of law made in *Krishna VeniNagam* [*Krishna VeniNagam* v. *Harish Nagam*, (2017) 4 SCC 150 : (2017) 2 SCC (Civ) 394] that if either of the parties gives consent, the case can be transferred, is absolutely unacceptable. However, an exception can be carved out to the same. We may repeat at the cost of repetition that though the principle does not flow from statutory silence, yet as we find from the scheme of the Act, the Family

> Court has been given ample power to modulate its procedure. The Evidence Act is not strictly applicable. Affidavits of formal witnesses are acceptable. It will be permissible for the other party to crossexamine the deponent. We are absolutely conscious that the enactment gives emphasis on speedy settlement. As has been held in *Bhuwan Mohan Singh* [*Bhuwan Mohan Singh* v.
> *Meena*, (2015) 6 SCC 353 : (2015) 3 SCC (Civ) 321 : (2015) 4 SCC (Cri) 200], the concept of speedy settlement does not allow room for lingering the proceedings. A genuine endeavour has to be made by the Family Court Judge, but in the name of efforts to bring in a settlement or to arrive at a solution of the lis, the Family Court should not be chained by the tentacles by either parties. Perhaps, one of the parties may be interested in procrastinating the litigation. **Therefore, we are disposed to think that once a settlement fails and if both the parties give consent that a witness can be examined in videoconferencing, that can be allowed. That apart, when they give consent that it is necessary in a specific factual matrix having regard to the convenience of the parties, the Family Court may allow the prayer for videoconferencing. That much of discretion, we are inclined to think can be conferred on the Family Court.** Such a limited discretion will not run counter to the legislative intention that permeates the 1984 Act. However, we would like to add a safeguard. A joint application should be filed before the Family Court Judge, who shall take a decision. However, we make it clear that in a transfer petition, no direction can be issued for videoconferencing. **We reiterate that the discretion has to rest with the Family Court to be exercised after the court arrives at a definite conclusion that the settlement is not possible and both parties file a joint application or each party filing his/her consent memorandum seeking hearing by videoconferencing**."

35. In ***Santhini*** (supra), the Hon'ble Apex Court thus clearly held that the reconciliation requires presence of both the parties at the same place and the same time so as to be effectively conducted. The spatial distance will distant the possibility of reconciliation because the Family Court Judge would not be in a position to interact with the parties in the manner as the law commands. By virtue of the nature of

the controversy, it has its inherent sensitivity. The Judge is expected to deal with care, caution and with immense sense of worldly experience absolutely being conscious of social sensibility. It was emphasized that, this commands a sense of trust and maintaining an atmosphere of confidence and also requirement of assurance that the confidentiality is in no way averted or done away with. The Hon'ble Apex Court further observed that the Family Courts Act under Section 11 of the 1984 Act confers a right on both the parties. It is statutory in nature. The Family Court Judge who is expected to be absolutely sensitive has to take stock of the situation and can *suomotu* hold the proceedings in camera. The Family Court Judge is only meant to deal with the controversies and disputes as provided under the 1984 Act. The in camera proceedings stand in contradistinction to a proceeding which is tried in court. When a case is tried or heard in court, there is absolute transparency. Having regard to the nature of the controversy and the sensitivity of the matter, it is desirable to hear in court various types of issues that crop up in these types of litigations. The Act commands that there has to be an effort for settlement. The legislative intendment is for speedy settlement. The confidentiality of the proceedings is imperative for these proceedings.

36. The Hon'ble Apex Court in ***Santhini*** (supra) further observed that what one party can communicate with other, if they are

left alone for some time, is not possible in videoconferencing and if possible, it is very doubtful whether the emotional bond can be established in a virtual meeting during videoconferencing. Videoconferencing may create a dent in the process of settlement. The Hon'ble Apex Court further observed and emphasized that the statutory right of a woman cannot be nullified by taking route to technological advancement and destroying her right under a law, more so, when it relates to family matters. It was observed that if the proceedings were directed to be conducted through videoconferencing, the command of the section as well as the spirit of the 1984 Act would be in peril and cause of justice would be defeated.

37. The Hon'ble Apex Court, overruled its judgment in ***Krishna Veni Nagam* v. *Harish Nagam*** *[(2017 4 SCC 150)]* to a certain extent. In ***Krishna Veni Nagam*** (supra), the statement of law that if either of the parties gives consent, the case can be transferred, was held absolutely unacceptable. The Hon'ble Apex Court in ***Santhini*** (supra) however carved out an exception that once a settlement fails and if both the parties give consent that a witness can be examined in videoconferencing that can be allowed. That apart, when the parties give consent that it is necessary in a specific factual matrix having regard to the convenience of the parties, the Family Court may allow the prayer for videoconferencing. The Hon'ble Apex

Court also added a safeguard that a joint application should be filed before the Family Court Judge, who shall take a decision. It was made clear that in a transfer petition, no direction can be issued for videoconferencing. It was reiterated that the discretion has to rest with the Family Court to be exercised after the Court arrives at a definite conclusion that the settlement is not possible and both the parties file a joint application or each party filing consent memorandum of videoconferencing.

38. In view of the aforesaid, can it be said that the very basis of ***Santhini*** (supra) has been taken away by the Rules,2023, as per the submission of the learned counsel for the petitioner.

39. This requires consideration of the following points:

***(i)*** *Whether, by the Rules, 2023 framed under Article 227 of the Constitution of India, the basis of the judgment of the Hon'ble Supreme Court can be taken away?*

and if it be so, the second point for consideration would be :

***(ii)*** *Whether such basis has, in fact, been taken away by the Rules,2023 ?*

If the answer to the first point ***(i)*** is that it cannot be taken away, the second question ***(ii)*** will not arise at all for consideration.

40. It is settled in law that the basis of a judgment of the High Court or the Supreme Court can be taken away.

41. In ***Tirath Ram Rajindra Nath, v. State of U.P. and another***[6], the Hon'ble Apex Court held that there is distinction between encroachment on the judicial power and the nullification of the effect of a judicial decision by changing the law retrospectively. The former (encroachment on the judicial power) is outside the competence of the Legislature, but the latter (nullification of the effect of a judicial decision by changing the law retrospectively) is within its permissible limit. The relevant portion of paragraph No.7 of the judgment reads as under :

> "7. *Now coming to the second contention of Dr Singhvi, we fail to see how the question of lack of power now arises in view of Section 3-AB. While developing his Contention 2, Dr Singhvi urged that the Legislature has unauthorisedly encroached on the judicial power. The amended Section 3-AB merely intradicts the decision rendered by the High Court and has not removed the want of power noticed by the High Court. We are unable to accede to this contention.* ***The Legislature has not purported either directly or by necessary implication to overrule the decision of the Allahabad High Court in Krishna Brick Field case. On the other hand it has accepted the decision as correct but has sought to remove the basis of the decision by retrospectively changing the law. This court has pointed out in several cases the distinction between encroachment on the judicial power and the nullification of the effect of a judicial decision by changing the law***

[6] (1973) 3 SCC 585

***retrospectively. The former is outside the competence of the Legislature but the latter is within its permissible limits.*** *In the instant case what the Legislature has done is to amend the law retrospectively and thereby remove the basis of the decision rendered by the High Court. Such a course cannot be considered as an encroachment on the judicial power."*

42. In ***M/s. Hiralal Rattanlal etc., etc., v. State of U.P. and another etc.,***[7] also the larger Bench of Supreme Court has reiterated the principle that Legislature is competent to remove the basis of the decision by changing the law retrospectively. The relevant paragraph No.16 of the judgment reads as under :

"16. *Now coming to point 3, there is no justification for the contention that the Legislature has usurped any judicial power. The Legislature has not purported either directly or by necessary implication to overrule the decision of the Allahabad High Court in Tilock Chand Prasan Kumar case. On the other hand it has accepted that decision as correct; but has sought to remove the basis of that decision by retrospectively changing the law. This Court has pointed out in several cases the distinction between the encroachment on the judicial power and the nullification of the effect of a judicial decision by changing the law retrospectively. The former is outside the competence of the Legislature but the latter is within is permissible limits. From the statement of objects and reasons, it appears that in the principal Act, the legislative intent was not clearly brought out. By means of the Amending Act the Legislature wanted to make clear its intent."*

[7] (1973) 1 SCC 216

43. In ***Satchidananda Misra v. State of Orissa and others***[8] also the Hon'ble Apex Court held in paragraph Nos.11 & 12, in respect to a Validating Act that it is too well settled that the legislature has the power to validate an Act by removing the infirmity indicated in any judgment and that too also retrospectively but they cannot merely set aside, annul or override a judgment of the court. The Hon'ble Apex Court referred to the Constitution Bench judgment in the case of ***Prithvi Cotton Mills Ltd. v. Broach Borough Municipality [(1969) 2 SCC 283]***, in which on the principles about validating statutes, it was held that if the legislature has the power over the subject-matter and competence to make a valid law, it can at any time make such a valid law and make it retrospectively so as to bind even past transaction**.** It was further held that the validity of a validating law, therefore, depends upon whether the legislature possesses the competence which it claims over the subject-matter and whether in making the validation it removes the defect which the courts had found in the existing law and makes adequate provisions in the validating law for a valid imposition of the tax.

44. Recently, in ***State of Rajasthan and others v. Sharwan Kumar Kumawat and others***[9]**,** the same principle has been restated. The relevant portion of paragraph No.21 reads as under :

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[8] (2004) 8 SCC 599
[9] (2023) 20 SCC 747

> "21. *Though it is contended by the learned advocates appearing for the respondents that the* ***impugned Rules have been brought forth only to nullify the effect of the judgments, as discussed, we do not think so. The appellants have duly complied with the orders passed. Even otherwise, law is quite settled that basis of a judgment can be removed and a decision of the court cannot be treated like a statute,*** *particularly when power is available to act and it is accordingly exercised in public interest. In such view of the matter, we do not find any legal malice in the amendments."*

45. So, the proposition of law is well settled that basis of the judgment can be taken away so as to render it ineffective for its applicability for the future as a precedent, in the changed law, but the judgment cannot be over turned by the Parliament or the Legislature. Even after the change in law, may be retrospective taking away the basis of the decision, so far as the parties to the subject are concerned they shall ordinarily be bound by the judgment rendered in their case on its attaining finality.

46. But, such law that may take away the basis of a judgment has to be enacted by Parliament in respect of matters enumerated in List I, or by the State Legislature in respect of matters falling under List II, and further by both the Parliament and the State Legislature on the

subjects enumerated in List III (Concurrent List), all in Seventh Schedule of the Constitution of India. In the event of a conflict between a law made by Parliament and a law made by the State Legislature on a subject in the Concurrent List, it is also settled that, the law made by Parliament shall prevail to the extent of inconsistency, unless the State law, having been reserved for the consideration of the President, has received Presidential assent, in which case the State law shall prevail in that State. The emphasis of this Court is that there should be a law made by the Parliament or the State Legislature as the case may be. Such law shall also be a valid law withstanding the test of the constitutional provisions under Articles 14, 21, etc.

47. The Rules framed by the High Court under Article 227 of the Constitution of India, are not made by the Parliament or by the State Legislature.

48. This Court is of the view that, in the light of the constitutional framework of distribution of legislative powers as provided under Article 246 of the Constitution of India, which prescribes the field of legislation**,** the laws made by Parliament and the State Legislatures stand on a different footing from the Rules framed by the High Court in exercise of its powers under Article 227(2)(b) of the Constitution of India.

49. Rules made under Article 227(2)(b) cannot encroach upon the legislative domain of Parliament or the State Legislatures as envisaged under Article 246 of the Constitution of India nor can be placed at par so as to take away the basis of the judgment of Supreme Court or High Court on a subject, like in the present case. Family Courts Act and Hindu Marriage Act, fall for legislation in the domain of the Parliament or/and the State Legislatures, so, taking away the basis of ***Santhini*** (supra), would require legislative amendment in the Family Courts Act and Hindu Marriage Act, which falls outside the domain of the High Court's rule making power under Article 227 (2) of the Constitution of India.

50. Further, the Rules made by the High Court under Article 227 (2)(b) of the Constitution of India shall not be inconsistent with any law for the time being in force. Proviso of Article 227 (2) and (3) of the Constitution of India makes it very clear that any rules made, forms prescribed, or tables settled under Clauses (2) and (3) shall not be inconsistent with the provisions of any law for the time being in force.

51. In ***P.Radhakrishnan v. High Court of Judicature at Madras reptd. By Us Registrar, High Court, Madras and another***[10]***.*** the Madras High Court held that the limitation imposed by

[10] 1986 SCC OnLine Mad 113

the proviso to Article 227 of the Constitution of India, which requires that the rules must not be inconsistent with the provisions of any law for the time being in force is, therefore, by the clear and specific language of the proviso applicable only where rules are made by the High Court in exercise of its rule-making power under Article 227 (2). The relevant portion from the paragraph No.2 reads as under :

> *"2.....The proviso to Art. 227 declares that any rules made by the High Court in exercise of its rule-making power under Art. 227, Cl.(2) shall not be inconsistent with the provisions of any law for the time being in force. This limitation imposed by the proviso to Art. 227 which requires that the rules must not be inconsistent with the provisions of any law for the time being in force is, therefore, by the clear and specific language of the proviso applicable only where rules are made by the High Court in exercise of its rule-making power under Art. 227, Cl.(2) and has no application where rules are made by the High Court in exercise of rule-making power under some other statutory provision. The proviso to Art. 227 also does not operate as a limitation on the exercise of the rule- making power belonging to the High Court under S. 122 of the Code. Art. 227, Cl. (2) and S. 122 of the Code are two distinct and different provisions conferring rule making power on the High Court and the limitation imposed by the proviso to Art. 227 is applicable only to the exercise of the rulemaking power conferred under Art. 227, Cl.(2) and cannot be imported so as to restrict the scope and ambit of the rule making power conferred under S. 122 of the Code...."*

52. Though, in ***P.Radhakrishnan*** *(supra)*, it was also held that the said limitation of the proviso to Article 227 (2) & (3) of the Constitution of India would not come into play where a rule is framed under Section 122 CPC, since the same is not in issue in the present case, this Court is neither dealing nor making any observation on that part. This Court refers to the said judgment only to the extent that the Rules framed under Article 227(2) of the Constitution of India cannot be inconsistent with the provisions of any law for the time being in force.

53. In ***Keshavlal Parbhuas Chokshi Firm and others v. Manubhai I Vyas***[11]***.*** the Gujarat High Court held that the proviso to Article 227(3) of the Constitution is undoubtedly paramount, and it must prevail over any statutory provision to the extent of any inconsistency. The Gujarat High Court observed that any rules made by the High Court in exercise of its rule-making power under Article 227(2) shall not be inconsistent with the provisions of any law for the time being in force. It was further observed that, by its clear and specific language, the proviso applies only where rules are made by the High Court in exercise of its powers under Article 227(2). The relevant portion from paragraph No.7 reads as under :

> *"7…….The proviso to Article 227 being a constitutional provision is undoubtedly paramount and it must prevail against any statutory provision to the extent*

[11] 1967 SCC OnLine Guj 16

*to which such statutory provision may come into clash with it but we do not find any clash or conflict between the proviso to Article 227 and Section 122 of the Code. The proviso to Article 227 declares that any rules made by the High Court in exercise of its rule-making power under Article 227 Clause (2) shall not be inconsistent with the provisions of any law for the time being in force. This limitation imposed by the proviso to Article 227 which requires that the rules must not be inconsistent with the provisions of any law for the time being in force is, therefore, by the clear and specific language of the proviso applicable only where rules are made by the High Court in exercise of its rulemaking power under Article 227 Clause (2)……"*

54. The law declared by the Hon'ble Apex Court is also a law within the meaning of Article 227 (2)(b) Proviso. The expression "law" encompasses not only statutory law but also the law declared through judicial pronouncements. The declaration of law by the Hon'ble Apex Court is binding under Article 141 of the Constitution of India. Such law cannot be altered, diluted, or rendered ineffective by framing any rule under Article 227(2)(b) by the High Court, inconsistent with the law declared by the Hon'ble Apex Court.

55. In ***Bhargavi Constructions and another v. Kothakapu Muthyam Reddy and others***[12]**,** which arose in the context of Order 7 Rule 11 CPC, which provides for rejection of the plaint, *inter alia*, under clause (d), where the suit appears from the statement in the plaint to be barred by law, the Hon'ble Apex Court considered the meaning of the expression "law". It was held by some High Courts that the term "law" occurring in clause (d) of Rule 11 of Order 7 does not include judicial decisions of the Hon'ble Apex Court. There was difference of opinion on the said aspect between different High Courts. The Allahabad High Court in ***Virendra Kumar Dixit V. State of UP (2014) SCC OnLine All 16476***, had taken a view that *"law includes not only legislative enactments but also judicial precedents. An authoritative judgment of the Court including higher judiciary is also law"*. The Hon'ble Apex Court expressed its agreement with the view taken by the Allahabad High Court, as also by other High Courts which had taken a similar view. The relevant paragraph Nos.25 to 32 read as under :

> "*25. The High Court was, therefore, not right in by-passing the law laid down by this Court on the ground that the suit can be filed to challenge the award, if the challenge is founded on the allegations of fraud. In our opinion, it was not correct approach of the High Court to deal with the issue in question to which we do not concur.*
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> *26. We also do not agree with the submissions of Mr Adinarayana Rao, learned Senior Counsel for the respondents when he urged that firstly, the*

[12] (2018) 13 SCC 480

*expression "law" occurring in clause (d) of Rule 11 Order 7 does not include the "judicial decisions" and clause (d) applies only to bar which is contained in "the Act" enacted by the legislature; and secondly, even if it is held to include the "judicial decisions", yet the law laid down in State of Punjab (2008) 2 SCC 660 cannot be read to hold that the suit is barred. Both these submissions, in our view, have no merit.*

*27. Black's Law Dictionary (9th Edn.) defines the expression "law". It says that "law" includes the "judicial precedents" (see at p. 962). Similarly, the expression "law" defined in Jowett's Dictionary of English Law (3rd Edn., Vol. 2, (pp. 1304/1305) says that "law is derived from judicial precedents, legislation or from custom. When derived from judicial precedents, it is called common law, equity, or admiralty, probate or ecclesiastical law according to the nature of the courts by which it was originally enforced".*

*28. The question as to whether the expression "law" occurring in clause (d) of Rule 11 of Order 7 of the Code includes "judicial decisions of the Apex Court" came up for consideration before the Division Bench of the Allahabad High Court in Virendra Kumar Dixit v. State of U.P., 2014 SCC OnLine ALL 16476. The Division Bench dealt with the issue in detail in the context of several decisions on the subject and held in para 15 as under: (SCC OnLine All)*

> *"15. Law includes not only legislative enactments but also judicial precedents. An authoritative judgment of the courts including higher judiciary is also law."*

*29. This very issue was again considered by the Gujarat High Court (Single Bench) in Hermes Marines Ltd. v. Capeshore Maritime Partners FZC, 2016 SCC OnLine Guj 8686. The learned Single Judge examined the issue and relying upon the decision 2014 SCC OnLine ALL 16476 of the Allahabad High Court quoted supra held in para 53 as under: (Hermes case, SCC OnLine Guj)*

> *"53. In the light of the above discussion, in the considered view of this Court, it cannot be said that the term "barred by any law" occurring in clause (d) of Rule 11 of Order 7 of the Code, ought to be read to mean only the law codified in a legislative enactment and not the law laid down by the courts in judicial precedents. The judicial precedent of the Supreme Court in Liverpool & London Steamship Protection and Indemnity Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512 has been followed by the decision of the Division Bench in Croft Sales & Distribution Ltd. v. M.V. Basil, 2011 SCC OnLine Guj 673. It is, therefore, the law as of today, which is that the Geneva Convention of 1999 cannot be made applicable to a contract that does not involve public law character. Such a contract would not give rise to a maritime claim. As discussed earlier, the word "law" as occurring in Order 7 Rule 11(d) would also mean judicial precedent. If the judicial precedent bars any action that would be the law."*

*30. Similarly, this very issue was again examined by the Bombay High Court (Single Judge) in Shahid S. Sarkar v. Mangala Shivdas Dandekar 2017 SCC OnLine Bom 3440. The learned Judge placed reliance on the decisions of*

*the Allahabad High Court in Virendra Kumar Dixit v. State of U.P., 2014 SCC OnLine All 16476 and the Gujarat High Court in Hermes Marines Ltd., 2016 SCC OnLine Guj 8686 and held as under: (Shahid case 2017 SCC OnLine Bom 3440, SCC OnLine Bom paras 18 & 19)*

> *"18. ... The law laid down by the highest court of a State as well as the Supreme Court, is the law. In fact, Article 141 of the Constitution of India categorically states that the law declared by the Supreme Court shall be binding on all courts within the territories of India. There is nothing even in CPC to restrict the meaning of the words "barred by any law" to mean only codified law or statute law as sought to be contended by Mr Patil. In the view that I have taken, I am supported by a decision of the Gujarat High Court in Hermes Marines Ltd., 2016 SCC OnLine Guj 8686 ...*
>
> *19. One must also not lose sight of the purpose and intention behind Order 7 Rule 11(d). The intention appears to be that when the suit appears from the statement in the plaint to be barred by any law, the courts will not unnecessarily protract the litigation and proceed with the hearing of the suit. The purpose clearly appears to be to ensure that where a defendant is able to establish that the plaint ought to be rejected on any of the grounds set out in the said Rule, the Court would be duty-bound to do so, so as to save expenses, achieve expedition and avoid the court's resources being used up on cases which will serve no useful purpose. A litigation, which in the opinion of the court, is doomed to fail would not further be allowed to be used as a device to harass a defendant."*

*31. Similarly, issue was again examined by the High Court of Jharkhand (Single Judge) in Mira Sinha v. State of Jharkhand, 2015 SCC OnLine Jhar 4377. The learned Judge, in para 7 held as under: (SCC OnLine Jhar)*

*"7. In the background of the law laid down by the Hon'ble Supreme Court, it is apparent that Order 7 Rule 11(d) CPC application is maintainable only when the suit is barred by any law. The expression "law" included in Rule 11(d) includes the law of limitation and, it would also include the law declared by the Hon'ble Supreme Court."*

*32. We are in agreement with the view taken by the Allahabad, Gujarat, Bombay and Jharkhand High Courts in the aforementioned four decisions which, in our opinion, is the proper interpretation of the expression "law" occurring in clause (d) of Rule 11 of Order 7 of the Code. This answers the first submission of the learned counsel for the respondents against the respondents.*

56. When the law under the Family Courts Act, 1984 and the Hindu Marriage Act, 1955 clearly mandates that the proceedings shall be conducted in camera, and on the said provisions, the Hon'ble Apex Court laid down the law in ***Santhini*** (supra) that after the settlement fails, Video Conferencing can be permitted subject to the conditions and the circumstances provided by ***Santhini*** (supra).

57. The Rules 2023 framed in the exercise of power under Article 227 (2)(b) of the Constitution of India can neither provide nor can be construed as providing for Video Conferencing in matrimonial dispute at the stage of reconciliation, otherwise that would, be inconsistent with the law for the time being in force under the Family Courts Act and the Hindu Marriage Act, and the Law declared by the Hon'ble Apex Court in ***Santhini*** (supra). The High Court Rules cannot provide for conducting such proceedings through video conferencing in a manner that defeats or dilutes the mandate in ***Santhini*** (supra).

58. It is a well-settled principle that there is a presumption in favour of the constitutionality of an enactment, and even where two views are possible, one, which makes the provision *intra vires* and the other which renders it *ultra vires* the Constitution, the latter is to be avoided and the former is to be preferred.

59. In ***Shri Ram Krishna Dalmia v. Shri Justice S.R. Tendolkar and others***[13], the Hon'ble Apex Court on the point of constitutionality of enactment, restated the principles in paragraph No.11, which reads as under :

> "**11.** The principal ground urged in support of the contention as to the invalidity of the Act and/or the notification is founded on Article 14 of the Constitution. In *Budhan Choudhry* v. *State of Bihar* [(1955) 1 SCR 1045] a Constitution Bench of seven Judges of this Court at p. 1048-49 explained the true meaning and scope of Article 14 as follows;
>
> "The provisions of Article 14 of the Constitution have come up for discussion before this Court in a number of cases, namely, *Chiranjit Lal Choudhuri* v. *Union of India* [1950 SCC 833 : (1950) SCR 869] , *State of Bombay* v. *F.N. Balsara* [1951 SCC 860 : (1951) SCR 682] , *State of West Bengal* v. *Anwar Ali Sarkar* [(1952) 1 SCC 1 : (1952) SCR 284] , *Kathi Raning Rawat* v. *State of Saurashtra* [(1952) 1 SCC 215 : (1952) SCR 435] , *Lachmandas Kewalram Ahuja* v. *State of Bombay* [(1952) 1 SCC 726 : (1952) SCR 710] , *Qasim Razvi* v. *State of Hyderabad* [(1953) 1 SCC 228 : (1953) SCR 581] and *Habeeb Mohamad* v. *State of Hyderabad* [(1953) 1 SCC 501 : (1953) SCR 661] . It is, therefore, not necessary to enter upon any lengthy discussion as to the meaning, scope and effect of the article in question. It is now well established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (*i*) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others

[13] AIR 1958 SC 538

left out of the group, and (*ii*) that that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases, namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure."

The principle enunciated above has been consistently adopted and applied in subsequent cases. The decisions of this Court further establish—

(*a*) that a law may be constitutional even though it relates to a single individual if, on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by himself;

***(b) that there is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles;***

(*c*) that it must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds;

(*d*) that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest;

(*e*) that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be concieved existing at the time of legislation; and

(*f*) that while good faith and knowledge of the existing conditions on the part of a legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may reasonably be regarded as based, the presumption of constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and un-known reasons for subjecting certain individuals or corporations to hostile or discriminating legislation.

The above principles will have to be constantly borne in mind by the court when it is called upon to adjudge the constitutionality of any particular law attacked as discriminatory and violative of the equal protection of the laws."

60. This Court do not say that the Rules, 2023 are *ultra vires* Article 227(2)(b) read with the proviso to Clause (3), as this Court is of the considered view that the said Rules, 2023 have been framed generally to regulate video conferencing. The said Rules are procedural in nature and are to be understood as regulating the procedure for video conferencing where such conferencing is otherwise permissible. However, in cases where video conferencing is not

permissible, or is not permissible up to or at a particular stage of judicial proceedings, the said Rules shall have no application.

61. This Court is further unable to construe the Rules, 2023 in the manner urged by the learned counsel for the petitioner. The submissions are misconceived and proceed on misunderstanding of the settled legal principles and that too the very basic principles. This Court cannot read the Rules, 2023 as mandating video conferencing in matters such as the present case, whether before the Family Court or a Civil Court dealing with matrimonial disputes, so as to permit video conferencing even at the stage of reconciliation, contrary to the law laid down by the Hon'ble Apex Court in ***Santhini*** (supra).

62. The Rules, 2023 cannot be construed as being in conflict with, or inconsistent with, the provisions of the statutory enactments or the judge-made law laid down by the High Court or the Supreme Court.

63. In **Government of Andhra Pradesh and Others *v.* *P. Laxmi Devi*[14]**, the Hon'ble Apex Court held that before declaring the statute to be unconstitutional, the court must be absolutely sure that there can be no manner of doubt that it violates a provision of the Constitution. If two views are possible, one making the statute

[14] (2008) 4 SCC 720

constitutional and the other making it unconstitutional, the former view must always be preferred. Paragraph No.46 reads as under :

> ***"46.*** *In our opinion, there is one and only one ground for declaring an Act of the legislature (or a provision in the Act) to be invalid, and that is if it clearly violates some provision of the Constitution in so evident a manner as to leave no manner of doubt. This violation can, of course, be in different ways e.g. if a State Legislature makes a law which only Parliament can make under List I to the Seventh Schedule, in which case it will violate Article 246(1) of the Constitution, or the law violates some specific provision of the Constitution (other than the directive principles). But before declaring the statute to be unconstitutional, the court must be absolutely sure that there can be no manner of doubt that it violates a provision of the Constitution. If two views are possible, one making the statute constitutional and the other making it unconstitutional, the former view must always be preferred. Also, the court must make every effort to uphold the constitutional validity of a statute, even if that requires giving a strained construction or narrowing down its scope vide Rt. Rev. Msgr. Mark Netto v. State of Kerala [(1979) 1 SCC 23 : AIR 1979 SC 83] SCC para 6 : AIR para 6. Also, it is none of the concern of the court whether the legislation in its opinion is wise or unwise."*

64. The Rules,2023 of the High Court cannot take away the basis of the judgment of the Supreme Court in ***Santhini*** (supra), so as to render its applicability ineffective in Andhra Pradesh.

65. The contention of the learned counsel for the petitioner that, in view of the Rules, 2023, video conferencing is permissible in matrimonial disputes even at the stage of reconciliation is unsustainable and is rejected.

66. This Court reiterates that, in view of ***Santhini*** *(supra)*, which is binding under Article 141 of the Constitution, video conferencing between husband and wife in matrimonial disputes is impermissible at the stage of reconciliation, i.e., until reconciliation fails. This position holds good irrespective of whether the proceedings are before a Civil Court or a Family Court. No distinction can be drawn regarding the applicability of ***Santhini*** *(supra)* based on the forum i.e., Civil Court or the Family Court.

67. The contention of the petitioner's counsel that in ***Mohammad Razik Shaik*** (supra), this Court did not hold ***Nerella Chiranjeevi Arun Kumar*** (supra) as *per incuriam* and therefore, ***Nerella Chiranjeevi Arun Kumar*** (supra) is to be followed by this Court, being a Co-ordinate Bench, is also without substance and is rejected. In ***Mohammad Razik Shaik*** (supra) as already mentioned above, this Court considered ***Nerella Chiranjeevi Arun Kumar*** (supra) and in clear words held that the said judgment did not consider

the Hon'ble Apex Court judgment in ***Santhini*** *(supra)*. Consequently, the law in ***Nerella Chiranjeevi Arun Kumar*** (supra), which is contrary to the Supreme Court judgment cannot be followed. There was no need to declare the said judgment as *per incuriam,* being in conflict with the judgment of the Supreme Court. This Court has to follow the judgment of the Apex Court and not of the Co-ordinate Bench, which is contrary to the law laid down by the Hon'ble Apex Court.

68. The Rules,2023 framed by the High Court in exercise of its power under Article 227 of the Constitution of India cannot take away the basis of the judgment of the Hon'ble Apex Court in ***Santhini*** *(supra)*, so as to render it ineffective in its applicability in the State of Andhra Pradesh.

## V. Conclusion :-

69. In view of the aforesaid discussion, this Court holds, on points of determination **'A'** and **'B'**, that video conferencing is permissible in matrimonial proceedings, whether before the Family Court or the Civil Court, ***after reconciliation fails***. In other words, at the stage of reconciliation, until it fails, video conferencing is not permissible for such purpose. *The judgment in* ***Santhini*** (supra) applies with full force in the State of Andhra Pradesh as well and is not

inapplicable, as contended by the petitioner's counsel, on account of the Andhra Pradesh High Court "Rules for Video Conferencing for Courts, 2023".

70. In view of the conclusions reached on points **'A'** and **'B'**, the answer to point **'C'** is that the impugned order is perfectly justified in law, in terms of ***Santhini*** *(supra)*, and calls for no interference.

## VI. Result :-

71. For all the aforesaid reasons, this Court finds no merit in the submissions advanced by the learned counsel for the petitioner. The order under challenge has been passed in consonance with the law as settled by the Hon'ble Apex Court in ***Santhini*** *(supra)* and warrants no interference.

72. The Civil Revision Petition is dismissed.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

**RAVI NATH TILHARI, J**

Date : **30.04.2026**
***Note :- L.R. Copy to be marked.***
B/o
RPD.

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**(DISMISSED)**

**CIVIL REVISION PETITION NO: 311 OF 2026**

**Date : 30.04.2026**

***Note :- L.R. Copy to be marked.***

B/o
RPD.

*HON'BLE SRI JUSTICE RAVI NATH TILHARI

+ CIVIL REVISION PETITION NO: 311 OF 2026

% 30.04.2026

#1. Bheemisetti Suryanarayana.

……Petitioner

And:

$ 1. Bheemisetti Mrudula Naga Bhavani.

….Respondent.

!Counsel for the petitioner : Sri B.Abhay Siddanth Mootha

^Counsel for the respondent/(s) : ---.

<Gist:

>Head Note:

? Cases referred:

1. 2019 Supreme (AP) 357
2. (2018) 1 SCC
3. 2025 SCC OnLine AP 314
4. C.R.P.No.1194 of 2024, dated 18.10.2024
5. (2021) 16 SCC 501
6. (1973) 3 SCC 585
7. (1973) 1 SCC 216
8. (2004) 8 SCC 599
9. (2023) 20 SCC 747
10. 1986 SCC OnLine Mad 113
11. 1967 SCC OnLine Guj 16
12. (2018) 13 SCC 480
13. AIR 1958 SC 538
14. (2008) 4 SCC 720

**HON'BLE SRI JUSTICE RAVI NATH TILHARI**

**CIVIL REVISION PETITION NO: 311 OF 2026**

1. Bheemisetti Suryanarayana.

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….Respondent.

**DATE OF JUDGMENT PRONOUNCED : 30.04.2026**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**

1. Whether Reporters of Local newspapers may be Allowed to see the judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Your Lordships wish to see the fair Copy of the Judgment? Yes/No

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**RAVI NATH TILHARI, J**