

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 13021 OF 2014
IN
FIRST APPEAL NO. 265 OF 2010
WITH
FIRST APPEAL NO. 265 OF 2010
(Mushtaq Shah Ismail Shah, Since deceased
through his L.Rs. Ismail Mehtab Shah and others
Vs. Sameena Shah Azeez Shah)

Mr. M.A. Khan, Advocate for the applicants
Mr. J.V. Deshpande, Advocate for the respondent

CORAM : M.T. JOSHI, J.
DATE : 19/01/2015

ORAL ORDER :

1. Heard both sides.
2. It is an admitted fact that the original appellant – Mushtaq Shah has died during the pendency of the present proceedings. The impugned order is passed in an application filed before the learned District Judge under section 25 of the Guardian and Wards Act whereunder the custody of the minor – Waseem was granted to the present respondent - Sameena Shah, who is the maternal aunt of the minor and the original appellant

was his father. The appellant has, however, died during the pendency of the present appeal. Now, the deceased appellant's legal representatives are before this Court.

3. The present legal representatives will have to prove the facts as to how it would be in the interest of minor Waseem to be in their custody. In the circumstances, they would be at liberty to file appropriate application before the competent Court in this regard. In that view of the matter, the first appeal is disposed of as abated.

4. Considering the fact that minor Waseem is now ten years old and the relationship of the present legal representatives of the deceased appellant, the present applicants would be entitled to have access to minor Waseem. They may meet minor Waseem in the Children Complex at Family Court, Aurangabad on every first and third Saturday of English calendar month between 2.30 p.m. and 4.30 p.m., upon payment of the travelling expenses of Rs. 100/- to be paid to the respondent on the date of each visit, as directed above, in presence of the Councillor of the Family Court, Aurangabad who

would oversee the access.

. If the present applicants fail to pay the travelling expenses, as directed above to the respondent, the respondent would not be required to bring minor Waseem, as directed earlier, for his access thereafter.

5. The present order shall be effective till 7th April, 2015 and shall also be subject to the interim orders those may be passed by the competent Court upon filing of application, if any by the present applicants i.e. the legal representatives of deceased appellant.

6. The competent Court shall not be influenced by the above order and the fresh orders would be passed by the said Court in the application, if any filed by the present applicants, on its own merits.

7. The present civil application as well as first appeal stand disposed of without any order as to costs.

Parties to act on duly authenticated copies.

Sd-
[M.T. JOSHI]
JUDGE

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