

IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 737 OF 2014

Chandrakant Eknath Borode ... Petitioner

Versus

Duryodhan Thamaji Patole & others ... Respondents

.....
Mr. Manoj Dhavad, Advocate holding for
Mr. N.B. Narwade, Advocate for petitioner
.....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 2nd FEBRUARY , 2015

PER COURT :

1. The petitioner is the biological father of the third respondent who is a three year old child. The petitioner's wife had stayed with her parents - respondent Nos. 1 & 2 during her illness and she passed away on 26-06-2012. The child is residing with his grand parents i.e. respondent Nos. 1 & 2 ever since then.

2. The petitioner has moved an application for custody of the child bearing No. 18 of 2014 before the competent Court at Ahmednagar. The application Exhibit 5 was filed by the petitioner seeking the custody of the child during the pendency of the main proceedings. The petitioner claims to be an agriculturist who has

about 3 Acres of land and his parents are residing with him. It is, therefore, contended that he and his parents can look after the child in a proper manner.

3. By the impugned order, the petitioner alleges grave injustice. Contention is that when proper care can be taken of the child by the petitioner and his parents, the Trial Court should not have postponed the hearing of the Exhibit 5 application till the decision in the main proceedings. The petitioner also prays that alternatively the Trial Court could have granted visiting rights to the petitioner so as to be able to have the company of his child.

4. Having considered the submissions of the learned Advocate for the petitioner and having gone through the record, it is evident that the main proceedings are for seeking custody of the child. The prayer made below Exhibit 5 pertains to seeking such custody at an interim stage. In my view, final relief cannot be granted at an interim stage. I therefore, do not find any perversity or error in the impugned order.

5. In so far as the prayer of the petitioner that he may be given visiting rights, are concerned, the petitioner will have to move an appropriate application before the competent Court in the event it

is permissible in law. If such an application is made praying for visiting rights so as to meet the child, the Trial Court may consider the same strictly in accordance with law and may pass appropriate orders after hearing both the sides.

6. With the above observations and without causing any interference in the impugned order dated 09-12-2014, the petition is disposed off.

(RAVINDRA V. GHUGE, J.)