

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NOS. 718 AND 787 OF 2015.

WRIT PETITION NO. 718 OF 2015.

IBRAHIM SHAH
VS

.... PETITIONER.

1. SAMIRA IBRAHIM SHAH
AND ANOTHER

.... RESPONDENTS.

Mr. S. N. Joshi, Advocate for the petitioner.
Mr. P. A. Kamat, Advocate for the respondents.

WITH

WRIT PETITION NO. 787 OF 2015.

1. SAMIRA IBRAHIM SHAH
AND ANOTHER

.... PETITIONER.

VS

IBRAHIM SHAH

... RESPONDENT.

Mr. P. A. Kamat, Advocate for the petitioners.
Mr. S. N. Joshi, Advocate for the respondent.

Coram:- K. L. WADANE,J.

Reserved on: 4th December, 2015.

Pronounced on: 7th December, 2015.

ORDER

Both the petitions are taken together as the subject matter
and the parties are the same.

2. For the sake of convenience, parties are referred as per

their status before the trial Court.

3. The applicant and the respondent are struggling for interim custody of the child namely Aleena, therefore, there were several rounds of litigations between the applicant and the respondent which reached up to the High Court for twice.

4. The main contention/claim of the parties is with regard to custody of the minor child.

5. As per the order dated 17.7.2015 passed in Writ Petition No. 272/2015, the interim custody of the child is given to the respondent on the following conditions:-

- “(i) The Petitioner shall not take the child outside India without specific permission from the learned Civil Judge, Senior Division at Margao.
- (ii) Before the Petitioner takes interim custody of the child, the Petitioner shall surrender the Passport of the minor child before the Registrar (Judicial) of this Court.
- (iii) The Respondent shall hand over the minor child in custody of the Petitioner at "Shivneri Complex", Housing Board, Gogal, Margao, Goa, on or before 11.30 a.m. tomorrow i.e. 18.07.2015.
- (iv) Only ad-interim custody of the child is kept with the Petitioner and such custody will be subject to any further Orders that may be passed for the custody by the learned Civil Judge, Senior Division, at Margao.

- (v) Liberty to the Respondent to file an application before the learned Civil Judge Senior Division at Margao, to decide and work out the modalities of the visiting rights to the minor child by the Respondent.
- (vi) The learned Judge shall proceed to decide the application for custody of the minor child bearing Portuguese Civil Misc. Apln. No. 112/2013/II pending before the learned Civil Judge Senior Division, at Margao, as expeditiously as possible in any event within six months from the receipt of this Order."

6. After passing of the order, the respondent has filed an application before the learned Trial Court seeking permission to take the child abroad. However, as per the said order the respondent no.1 was allowed to go abroad keeping the child with the respondent no. 2.

7. So being aggrieved with the same order the applicant as well as the respondent have preferred these two petitions.

8. It is material to note that the application for custody of the minor child bearing Port CMA No. 112/2013/II is pending before the Civil Judge, Senior Division at Margao and as per the order dated 17.7.2015 passed by this Court in the above referred Writ petition, the trial Court is directed to dispose of the application for custody of minor child as expeditiously as possible and in

any event within 6 months from the receipt of the order dated 17.7.2015.

9. During the course of argument on a query, both the learned counsel submitted that the evidence in the matter has commenced and likely to be completed within a period of one month. Therefore, ultimately, the learned Trial Court has to dispose of custody application within a period of one or one and half month from today.

10. In such circumstances and the fact that the trial Court is going to adjudicate the application for custody of minor child within month or one and half month, it is not necessary to reexamine all the interim orders passed in reference to the custody of child.

11. Considering the facts and circumstances of the case, it is not desirable to invoke jurisdiction of this Court under Articles 226 and 227 of the Constitution of India. Therefore, both the petitions are dismissed with no order as to costs.

12. Petitions stand disposed of accordingly.

K. L. WADANE, J.