

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3983 OF 2013

Mrs. Varsha Praksash Lokre.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. R. N. Kachave for the Petitioner.

Mr. P. P. Jadhav for Respondent No. 3 and 4.

Mrs. M. M. Deshmukh, learned APP for the State.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.

Date : **December 18, 2015.**

P. C. :

1. By this petition filed under Article 226 of the Constitution of India, the Petitioner is seeking writ of habeas corpus against Respondent Nos.1 and 2 to produce the minor child Omkar (aged 4 years), who is in the custody of Respondent Nos.3 and 4. Admittedly, the Petitioner was married to Respondent No.3. The said marriage was dissolved by decree of divorce. During the wedlock, couple was bestowed with a male child, who is named as Omkar, now 7 years old.

2. The Petitioner has approached this Court with the allegation that Respondent Nos.3 and 4 have forcibly taken custody of child – Omkar and they are not even allowing her to have access to son Omkar. It is the further allegation of the Petitioner that decree of divorce is obtained by fraud.

3. On 11th December 2015, we had directed Respondent Nos.3 and 4 to produce the child before us. Pursuant to those directions, today Omkar is produced before us.

4. We allowed the Petitioner to meet Omkar. We personally had a brief interaction with Omkar, who is now 7 years old.

6. While exercising powers under Article 226 of the Constitution of India, this Court cannot go into the disputed facts. Suffice it to state that, on our interaction with Omkar, we find that he presently wants to stay with his grand-mother. It is his choice. We cannot make any order on that. The petition has served its purpose. However, on the basis of interaction with the child we are of the view that the possibility of child being tutored by his grand-mother, who produced the child, cannot be ruled out. However in the exercise of writ jurisdiction it is not desirable for us to look into such factual aspect. Therefore, we are of the opinion that it is for the Petitioner to take out appropriate proceedings for custody of her child. No further orders can be passed in this petition. Writ petition stands disposed of.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]