

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 83 OF 2015
IN
FAMILY COURT APPEAL NO. 147 OF 2014

Pradeep Datwani ..Applicant

In the matter between

Pradeep Datwani ..Appellant

v/s.

Mansi R. Datwani ..Respondent

Ms. Naira Jeejeebhoy i/b. Mrs.J.Firani for the Applicant.
Mr.R.T.Lalwani i/b. Prakash Mahadik for the Respondent.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : MARCH 13, 2015.**

P.C.

1. By this application, the applicant is seeking following reliefs:

“(a) The respondent be directed to deposit the passport
of the minor child Avantika before this Honourable Court;

(b) In the event the passport is alleged to be lost, then

this Hon'ble Court be pleased to permit the Applicant to apply for a new passport jointly with the respondent for his daughter wherein both parents names and signatures are endorsed.

(c) This Hon'ble Court be pleased to direct the Passport Authority to verify the status of the passport of the child and cancel the old passport and issue a new passport.

(d) The Respondent be directed to declare whether the name of the minor child has been changed or whether she intends to change it.

(e) This Honourable Court be pleased to direct the immigration authorities to verify if the minor child has been taken out of the country from 2010 to 2015.”

2. So far as the relief claimed in prayer clause “a” is concerned, the Counsel for the appellant submitted that the respondent has taken passport of minor child Avantika and not deposited it back in the family court, though it was obligatory as per the order dated 14th January, 2010 passed in Writ Petition NO.9551 of 2009. The respondent, on the contrary, maintains that the passport of minor

child Avantika was taken in pursuance of the order dated 11th April 2011 (8th April, 2011) passed below Exhibit 167 in petition No.B-75 of 2008, and thereafter it was re-deposited in the family court in the year 2011.

3. The appellant applied for certified copies of the said passport in the year 2014 and thereafter was told that the passport is not there in the record of the family court. The appellant, thereafter, prepared an application No.407 of 2014 below Exhibit 99 in before the Family Court for tracing the passport. This application was disposed of by the learned Judge of the Family Court on 4th December, 2014. The learned Judge observed that there is entry in the roznama showing that the respondent has taken the said passport on 8.4.2011 and therefore no need to make any further enquiry.

4. As stated above, the respondent submitted that she has handed over the said passport to the court in the year 2011 itself. The respondent is unable to give the details of the date of return of passport. In the circumstances, the Family Court No.2, Mumbai is directed to enquire whether the passport is available in the proceeding No.B-75 of 2008. If the passport is not available, the

Family Court No.2 shall enquire into as to who is responsible for misplacing the same and fix the responsibility. The said enquiry shall be completed within period of four weeks from the date of receipt of this order.

5. So far as the relief claimed in prayer clause (b) and (c) is concerned, learned counsel for the parties make a common statement that even otherwise the passport of Avantika, the minor daughter has already expired on 1.3.2015. In that view of the matter the parties agree that application for fresh passport of minor daughter Avantika should be made. We, therefore direct that the said passport of Avantika shall be treated as canceled. Accordingly, it is directed that the respondent shall make an application for fresh passport for minor daughter Avantika. The appellant shall co-operate in obtaining the passport. The respondent, on obtaining the passport shall deposit the same with the Registry of this Court within one week of receipt of the same.

6. So far as the relief claimed in prayer clause (d) is concerned, learned counsel for the respondent states that the name of the child is not changed so far.

7. So far as relief claimed in prayer clause (e) is concerned, we do not find it necessary to give direction in that regard at this stage.
8. Civil Application is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)