

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

rrpa

WRIT PETITION NO.2212 OF 2015

Namita Herwadkar nee Ms.Namita

Vasant Satoskar

.. Petitioner

Vs.

Aniruddha Herwadkar

.. Respondent

....

Mr.Digajmaan Mishra a/w. Mjr.Mangesh Sushilkumar Bhende,
Advocate for the Petitioner.

Mr.Peter Lobo a/w. Mr.Rajesh Mirchandani, Advocate for the
Respondent.

....

**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATED : APRIL 1, 2015.

P.C. :

Heard learned counsel appearing for the petitioner. The
petition is completely misconceived. Prayer Clauses (b) and (c) of
this writ petition read thus:

*“(b) This Hon'ble Court may kindly issue writ in the
nature of Mandamus or any other appropriate writ
and/or direction and/or order and thereby be pleased
issue directions for time bound recording of evidence
against the unwarranted delaying wishes of
Respondent and his Counsel.*

(c) This Hon'ble Court may direct the Family Court to decide the main custody petition no.D-77 of 2012 within 2 weeks from the date of completion of expedited recording of evidence and in any case before 18th March; as originally directed in Writ Petition No.7722 of 2014.”

2 If the grievance of the petitioner is that the order passed by this Court in Writ Petition No.7722 of 2014 dated 5th September, 2014 is not being implemented, the petitioner has to adopt appropriate remedy. As far as prayer (b) is concerned, such a relief is not capable of being granted. The Family Court at Mumbai has a huge pendency of cases. By prayer (c), the petitioner wants this Court to issue a direction to the Family Court to decide the Custody Petition within a period of two weeks from the date of completion of recording of evidence. If the petitioner wants priority to be given to the hearing of the pending petition, the remedy of the petitioner is to apply to the Court before which the matter is pending for grant of priority. Ultimately, it is the Court before which the matter is pending has to decide whether priority deserves to be given to a particular case considering the pendency of various categories of cases including the old cases before the said Court.

4 As far as prayer Clauses (d) and (e) are concerned, the

petitioner is seeking relief on merits of the pending dispute regarding custody. The prayers will have to be made before the Family Court in the pending matter.

5 We, therefore, decline to entertain this petition. However, it will be open for the petitioner to make an application to the Family Court for expeditious hearing of the pending Custody Petition. If according to the petitioner, the order dated 5th September, 2014, in Writ Petition No.7722 of 2014 is not being implemented, the petitioner can always adopt appropriate remedy.

6 If an application is made by the petitioner to the Family Court for expeditious hearing of the pending Custody Petition, the Family Court shall pass appropriate order on the said application in accordance with law.

7 Subject to what is observed above, the petition is disposed of.

(A.P. BHANGALE, J.)

(A.S. OKA, J.)