

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3994 OF 2015

Sandeep Toshniwal	... Petitioner
vs.	
Dr. Ashrita Toshniwal	... Respondent

Mrs. Taubon F. Irani, for the Petitioner.
Mrs. Manjula Rao, for the Respondent.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JULY 09, 2015

P.C.:

. The prayers a), b) and c) about access Summer in 2015 are now infructuous, therefore, these prayers can not be entertained and hence not pressed. The Petition is entertained for only prayer clause d).

2. In prayer d), the Petitioner/father prays that pending the determination of Petitioner's application for review/modification of interim custody, the direction be given to the Respondent/mother not to accompany the Petitioner/father and the children when the regular

access is given. It is informed that on all Sundays interim regular access is given to the Petitioner/father of two daughters aged 10 years and 7 years. The learned counsel for the Petitioner/father has submitted that the mother always accompanies with the daughters during access. So the father cannot get free access.

3. The learned senior counsel for the Respondent/mother has submitted that the behavior of the Petitioner/father is very objectionable. He is in relation with some other lady and there is possibility that the other lady may accompany with the father when the access of daughters is given to him on the Sundays. Moreover, the Petitioner/father tells daughters that their mother is mad and therefore he is going to bring another mother for them. The apprehension is expressed that they being daughters and having a impressionable age, this may affect adversely on them. It is further submitted that prayer d) can not be entertained at this stage because the Family Court has passed the order allowing the Respondent/mother to accompany the daughters with the father when the access is given and is confirmed by the High Court and it is not challenged.

4. The learned counsel for the Petitioner/father, on query, has submitted that the Petitioner/father will not take anybody or any woman along with him when he is having access with the daughters on all Sundays in the Mall or public place.

5. On hearing the learned counsel for both the sides and considering the prayer d), I am of the view that the access given to the Petitioner/father is limited i.e. on all Sundays between 5 pm to 9 pm and i.e. in the Mall/public place. Both the father and mother are having serious disputes and making allegations against each other. The growing age of the children in access matters has to be taken into account.

6. Therefore, under these circumstances in view of well being of the children and to facilitate good dialogue between the father and the daughters, the prayer made that Respondent/mother not to accompany the children when they are with the father during the access period, is reasonable and fair. Therefore, the Respondent/mother is directed to stay away during the access of daughters to the Petitioner/father. It may develop a good

bonding between the daughters and father.

7. The mother is having apprehension that the father will not be able to look after the daughters as they are small. Therefore, one maid may be sent along with them so that she can accompany the daughters and take care when they want to use washroom or any other purpose which is not possible for the father. The maid shall sit away from the children when they are with the father and shall not interfere in the meetings of the father and the daughters.

8. With these directions, the Petition is disposed of.

(MRS.MRIDULA BHATKAR, J.)