

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

**CIVIL APPLICATION NO. 135 OF 2015
IN
FAMILY COURT APPEAL NO.142 OF 2014**

Kunwar Singh Bedi .. Applicant
v/s.
Sonia Kunwar Singh Bedi ..Respondents

Mr. Robin Jaisinghani a/w Mr. Nirman Sharma i/b Dastur Dedhich
and Kalambi for the applicant
Mr. K.S. Bedi respondent in person

**CORAM: RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED: 21st APRIL, 2015.**

P.C.

1. Heard learned Counsel for the applicant and respondent
appearing in person. This application is filed for following
prayers:-

*“(a) That the Hon'ble Court may be pleased to direct the
appellant to forthwith sign 'Annexure' H and handover his
original passport to the applicant along with all necessary
documents to enable her to apply for renewal of the
passports of the daughters, Mihika and Mira;*

*(b) That the Hon'ble Court may be pleased to direct the
Appellant to do all such actions necessary for enabling the
applicant to apply for and obtain renewal of the passports
of the daughters, Mihika and Mira;*

2. The applicant was married to the respondent. They have two minor daughters from the said wedlock. The marital dispute between the parties necessitated the applicant to file a Divorce Petition No.A-849 of 2011. The respondent also filed Petition No.D-68 of 2011 for custody of minor daughters. By Judgment and Decree dated 10th December, 2013, the learned Judge of the Family Court allowed the applicant's petition for divorce and dismissed the petition filed by the respondent. The respondent has filed Family Court Appeal No.76 of 2014 challenging the decree of divorce and another Family Court Appeal No.144 of 2014, challenging the order refusing the custody of the minor daughters to him. Both the appeals are admitted and are pending for final disposal.

3. During the pendency of the aforesaid Family Court appeals, the applicant preferred Civil Application No.78 of 2015 requesting this Court to personally meet the children and to ascertain their wishes. The respondent has also filed Civil Application No.79 of

2015 for the permission to avail overnight access of the children for the first half of their spring vacation, commencing from 12.04.2015 to 17.04.2015 and during summer vacation, commencing from 13.06.2015 to 15.07.2015. In addition, weekend access on every 1st, 3rd and 5th weekend of the month. Both the civil applications were directed to be heard in Chamber in an attempt to bring about an amicable settlement between the parties. Accordingly, we have heard parties on 26th March, 2015 and interviewed the minor children on 15th April, 2015. The attempt to bring about the amicable settlement did not yield any result. Hence, there is no other option but to decide the appeals as well as the applications filed by the respondent on merits. During the pendency of these appeals and the applications, the applicant wife has filed the present applications for the reliefs as stated hereinabove.

4. The learned Counsel for the applicant submitted that the passport of the minor children Mihika and Mira has already

expired on 16th February, 2015 and needs to be renewed. Learned Counsel for the applicant submitted that for renewal purpose, the signature of the respondent is necessary. However, the respondent is not co-operating and therefore the present application is filed seeking appropriate directions.

5. The respondent in person submitted that since this application has been filed later in time, the same must be heard after disposal of his application being Civil Application No.79 of 2015. The respondent also submitted that if the prayer claimed by the applicant is granted that will affect his right of access to the minor children during the summer vacation. The respondent in person, lastly submitted that he is ready and willing to co-operate, provided the passports are renewed at Bombay and he is given access of the minor children in the first half of the summer vacation.

6. Undisputedly, under the impugned decree in the above Family Court Appeal, the custody of the minor children was given

to the applicant-wife and the respondent was given access to the minor daughters. There is no dispute that the applicant wife is residing at Bangalore along with the minor children, who are schooling at Bangalore. While the respondent is residing in Mumbai.

7. The elder daughter is in 10th standard and would be answering her Board examination. Under these circumstances, it would not be in the interest of the child to compel her to come to Mumbai for renewal of her passport. Hence, in our view, the respondent is not justified in insisting on renewal of the passport at Mumbai. The insistence of the respondent to keep the applications pending, despite our assurance that his Application No.79 of 2015 would be disposed of expeditiously, is totally unjustifiable. The apprehension of the respondent that renewal of passport would defeat his right to have access to the children is without any basis, as there is absolutely no nexus in the reliefs sought in these two applications. The tenor of submissions and

the objections raised by the respondent makes it clear that the respondent is not willing to co-operate and is not ready to give his consent for renewal.

8. The passports of the children have admittedly expired on 16th February, 2015. In our view, the children should not be deprived of holding a valid passport or of foreign travel merely because the respondent has refused to give his consent. The learned Counsel for the applicant has drawn our attention to clause III of Section IV, Schedule III and Annexure “G” to Schedule III of the Passport Rule, 1980. Perusal of the same reveals that in normal course, the signature of both the parents are necessary for the purpose of issuance or renewal of the passport to the minor. However, in case, one of the parents is not in position to get the consent of the other parent, the parent applying for the passport of the minor child can sign the form and submit the declaration in Annexure “G”, stating therein the facts and circumstances under which the signature of the other parents could not be obtained.

9. Since the custody of the minor daughters is with the applicant and the respondent is not co-operating and giving consent, we grant liberty to the applicant to apply for renewal of the passport of minor daughter Mihika and Mira and submit declaration as per Annexure “G” to the schedule III of the Passport Rule, 1980.

10. In the above circumstances, the application is disposed of. The respondent in person at this stage prays for stay of this order in order to enable him to challenge the same in the higher Court. By the present order, we have only observed that the applicant is entitled to apply for renewal of the passport of minor daughter by signing the declaration as per Annexure “G” to the Schedule III of the Passport Rule, 1980. We are not inclined to grant the stay. Prayer for stay of this order is rejected.

11. Certified copy of the order is expedited.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)