

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1806 OF 2014

Jose Chalke Mathew.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. D. V. Sutar for the Petitioner.

Mr. J. P. Yagnik, learned APP for the State.

Mr. M. M. Najmi for Respondent No. 4.

Mr. A. M. Bhalerao for Respondent Nos.7 and 8.

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

Date : **November 16, 2015.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties. By this writ petition under Article 226 of the Constitution of India, the Petitioner has sought the writ of habeas corpus – directing the Respondents to produce Raymon Jose Chalke and Ms. Josphina Jose Chalke before this Court.

2. The Petitioner and Respondent No.4 are the husband and wife. Admittedly, the Petitioner has already filed petition for divorce before the family Court, Mumbai at Bandra, under section 10(1)(i)(ix) and (x) of the Indian Divorce Act, 1869. In the said divorce petition, the prayer is also made for the

custody of said minor children invoking the provisions of section 43 of the said Act. The said proceedings are pending since 2013.

3. We find that the Petitioner has not only have the alternative efficacious remedy, but in fact he has adopted and pursuing that remedy. We are, therefore, not inclined to entertain this writ petition and the same is accordingly dismissed.

4. All contentions of the respective parties are kept open.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]