

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

**WRIT PETITION NO.6009 OF 2014**

Mrs. Meenu w/o Sunil Agarwal .... Petitioner

Vs.

The State of Maharashtra & Anr. .... Respondents

Mr. B.B. Tiwari i/by BBT Legal, Advocate for the Petitioner.  
Mr. A.R. Metkari, AGP for Respondent No.1.- The State.  
Mr. N.R. Bubna, Advocate for Respondent no.2.

**Coram : Smt. R.P. SondurBaldota, J.**

**Date : 5<sup>th</sup> May, 2015.**

P.C.

1            This petition challenges the order dtd. 26<sup>th</sup> May, 2014, by which the Family Court, Bandra, Mumbai allowed the application filed by the respondent at Exhibit '23' and issued non-bailable warrant to the petitioner, so as to compel her presence in the court on the next date.

2            On 1<sup>st</sup> April, 2014, a direction was given to the petitioner to remain present in court on 15<sup>th</sup> April, 2014 and make a statement as regards the status of the children. The petitioner has not complied with the direction till date. She had on 18<sup>th</sup> February, 2014 given an

undertaking to the Family Court that she would not move the children out of the country. Admittedly, in defiance of that undertaking and in violation of the order dtd. 18<sup>th</sup> February, 2014, she has taken the children to America. She claims to have been employed in America. Perusal of the impugned order shows that the Family Court had given her an ample opportunity to take remedial action. But she did avail herself of the opportunity. This court also by the orders dtd.14<sup>th</sup> February, 2015 and 25<sup>th</sup> February, 2015 had given opportunity to her to make a statement as to when she would be returning to India alongwith her children. On 30<sup>th</sup> March, 2015, the then advocate appearing for the petitioner made a categorical statement on instructions for her that she will not returning to India alongwith the children. Even today, Mr. Tiwari, the learned advocate appearing for the petitioner is unable to make a positive statement as regards her return to India alongwith the children. Since, the defiant attitude of the petitioner continues, she is in fact not entitled to a hearing by this court. In any case, the order passed by the Family Court is just and proper order in the facts and circumstances of the case and does not require any interference by this court.

3            Mr. Bubna, the learned advocate for respondent no.2 submits that even on the date of filing the undertaking before the Family Court, the petitioner did not intend to honour it. He argues that this is evident from the grounds taken by the petitioner in Writ Petition No.6012 of 2014 to challenge the order of the Family Court

striking off her defence for breach of the orders of the court and the undertaking. The relevant ground (f) reads as follows:

“The learned trial Judge ought to have considered the fact that otherwise also, the undertaking was taken from the petitioner by force and misrepresentation. The petitioner had already resigned from her workplace to go to U.S. at that time, which would have left her unemployed”.

It is apparent from the above ground that at the time of filing the undertaking, the petitioner had already planned and arranged to take the children outside the jurisdiction of the Family Court.

4           The petition is dismissed.

(Smt. R.P. SondurBaldota, J.)