

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9293 OF 2015

Ms Rhea Laila Pillai

.. Petitioner

vs.

Mr. Leander A Paes

.. Respondent

Mr. R.B. Mokashi a/w. Ms Pinaz Contractor for the Petitioner.

Mr. Ravi Kadam, Sr. Advocate, Mr. Rohan Kadam, I.J. Nankani,
Mr. Jagdish Choudhary, Ms Rutuja P. i/b Nankani & Associates for the
Respondent.

CORAM : M. S. SONAK, J.

DATE : 16 SEPTEMBER 2015.

P.C. :-

1] Not on board. Upon production, taken on board.

2] This petition challenges the order dated 14 September 2015, by which the Respondent has been permitted to take his minor daughter Aiyana to Delhi to witness the Davis Cup Tournament, in which the Respondent is to play. The permission is only for a limited period between 17 September 2015 and 20 September 2015, which is incidentally a festival vacation for Aiyana.

3] Mr. R.B. Mokashi, learned counsel for the Petitioner, has submitted that whilst he does not assail the order in its entirety, the interest of Aiyana, who is minor, nine years of age will be fully protected, if the Petitioner is permitted to remain with Aiyana

throughout the four tournament days. Mr. Mokashi submitted that whilst the Petitioner appreciates that the presence of Aiyana might serve as source of inspiration for the Respondent at the tournament, the welfare of Aiyana would be better served, if, the Petitioner accompanies Aiyana to New Delhi and thereafter offer access to the Respondent as and when the Respondent is actually available to spend time with Aiyana.

4] Having heard the learned counsel for the parties, in my judgment, there is no necessity to interfere with the impugned order. In the first place, the impugned order has considered the various relevant parameters and finally, permitted access to the Respondent only for a period of four days. The apprehensions that the Respondent may not be in a position to bestow proper attention and care upon Aiyana have been adequately redressed. Even the concern expressed by the Petitioner have been adequately redressed by imposing number of conditions.

5] In this case, there is no material on record to suggest that Aiyana is either reluctant or uncomfortable to spend time with the Respondent. There have been no incidents in the past or at least,

none have been placed on record to suggest that the privilege of access was abused or that any terms and conditions subject to which such privilege was granted were breached. Considering the limited nature of relief, there is no reason to either interfere with the impugned order or to make any modification in the terms and conditions set out therein.

6] In fact, the impugned order records that the Petitioner has really raised no issues with regard to the Respondent and his capacity to look-after the safety of Aiyana. The submission was made that such trust is restricted only to the Respondent and not to any other persons like the Petitioner's father or others. The Trial Court has rightly dealt with this contention as well. The Respondent's father, who is Aiyana's grandfather will also accompanying Aiyana at New Delhi during the tournament days. In these circumstances, the apprehensions that Aiyana might be left alone or be left in the company of some strangers, cannot be accepted.

7] Above all, in a petition under Article 227 of the Constitution of India, this Court does not exercise any appellate jurisdiction. There is neither any jurisdictional error nor any perversity in the

interim directions issued by the Family Court. Accordingly, there is no reason to entertain the present petition.

8] The petition is dismissed. There shall, however, be no order as to costs.

9] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)

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CERTIFICATE

**“Certified to be true and correct copy of
original signed Judgment/Order.”**