

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3730 OF 2015
IN
FIRST APPEAL NO.1118 OF 2014

Mrs.Usha Dhananjayan

... Applicant

Vs.

Fairoza Qamruddin Popere

... Respondent

Mr.G. Hariharan i/b Abhijit Deshmukh for the Applicant
Mr.M.J. Bandgar for Respondent

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 16th NOVEMBER, 2015
(IN CHAMBER)

P.C.:

1. The appeal is filed against the order of the District Judge 1, Mangaon, District Raigad and the Civil Application is for 50% access of the minor child during the Diwali and Summer vacations. Earlier, this Court by its order dated 15.9.2014 (Coram: Dhanuka, J.) has granted 50% access to both the grandparents for the year 2014 and so this application is made.

2. Today, the child of 5 to 6 years old is produced before me in Chamber. The child is continuously crying. She speaks more in Urdu. However, she is referring to sexual assault by her maternal uncle and she says that she was taken to a Doctor and was given injection. She says that

her private part gets black whenever she plays because of sexual assault committed by her maternal uncle.

3. It appears from her talk that the child is completely tutored. Sexual assault was committed in October 2014 when access was given to her maternal grandmother by the order of this Court. I am of the view assuming the child is sexually abused, private part never gets blackened after one month or more than one month if the child plays. Thus, she is completely tutored and it appears that she is brought up in an unhealthy atmosphere. In all fairness, access to maternal grandmother is to be facilitated today itself. Child's belongings are to be handed over to the maternal grandmother. I am informed by the maternal grandmother that the maternal uncle is not staying with her at present and he is in Dubai and he will not visit during her access period i.e., on 16th November, 2015 to 19th November, 2015. The child will stay with the maternal grandmother at Dombivli and she will not be shifted to any other place. On Friday, the 20th November, 2015 at 2pm, the child will be brought to the Chamber and the paternal grandmother will take the child back. The same arrangement i.e., 50% access, shall continue further in all the vacations, till the appeal is finally decided. I must mention here that the paternal grandmother shall not try to contact the child during this period.

4. Civil Application is disposed of accordingly.
5. S.O. to 20th November, 2015 at 2pm in Chambers.

(MRIDULA BHATKAR, J.)