

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APEAL FROM ORDER NO. 96 OF 2013

ANITA ASHOK RANJWAN
VERSUS
ASHOK SUKHDEO RANJWAN

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Advocate for Petitioner : Mr V H Solanke

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CORAM : V.K. JADHAV, J.

Dated: March 07, 2016

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PER COURT :-

1. Being aggrieved by the order passed by the learned District Judge-1, Majalgaon, District Beed, dated 20.12.2012 in Misc Application No.9/2012, the appellant/original applicant has preferred this appeal.

2. Brief facts giving rise to the present appeal are as follows :-

a] The appellant/original applicant wife has preferred an application for custody of her minor children namely Krishna s/o Ashok Ranjwan aged 6 years and Arjun s/o Ashok Ranjwan aged 4 years, respectively, under the provisions of Section 6 and 13 of Hindu Minority and Guardianship Act, 1956. The appellant/wife got married

with the respondent and out of their marital wedlock, said children were born. It is the case of the appellant wife that she was treated well by the respondent-husband for initial period of 2 to 4 years. However, thereafter, she was subjected to ill-treatment on account of non-fulfillment of the illegal demands for his business. Even on one occasion, mother and sister of the respondent-husband tried to set her on fire. Presently, the appellant-wife is residing at Mumbai. According to the appellant-wife, she would take care of her children and accordingly prayed for their custody.

3. The Respondent-husband resisted the application by filing his say at Exh.11. He had denied the allegations made against him about cruelty, etc. According to him, children are staying with him and he is taking care of them. Even, he has admitted both the children in a good school. The learned District Judge-1, Majalgaon, by its impugned order dated 20.12.2012 rejected the application and accordingly directed that custody of the children shall remain with respondent-husband being the natural guardian of the children and

further directed him to give access to the appellant-wife to meet the children each second (2nd) and fourth (4th) Saturdays and Sundays of every month, till the children attain age of majority. Hence, this appeal from order.

4. Learned counsel for the appellant submits that, the respondent-husband is languished in jail, and he is not in a position to take care of the children. Learned counsel further submits that, both children are not going to any school and they are residing in the farm house at Pawarwadi, Tq. Majalgaon, District Beed. Learned counsel also submits that, mother of the respondent-husband is old aged lady and therefore, there is no any other member in the family of the respondent-husband to take care of children in the absence of respondent-husband. Learned counsel further submits that, consent of the children is required to be taken before the Court and they are not ready to stay with respondent-husband. Learned counsel thus submits that, impugned order thus call for an interference.

5. None present for the respondent-husband.

6. The learned counsel submits that respondent is languished in jail, however, respondent for some time remained in jail for the reason that, the maintenance amount granted to the appellant/wife was due and outstanding and since it was not paid, respondent was sent to Jail under execution of the Recovery warrant.

7. Both the children, at present, are above the age of five years. Undisputedly, children are staying with the respondent. The documents filed at exh.16 unmistakably point out that children are admitted in World School situated at Majalgaon where they are taking education right now. In view of the provisions of Hindu Minority and Guardianship Act, 1956, respondent-husband is a natural guardian of the Hindu minor children. Apart from this, welfare of the children is a paramount consideration in the matter of grant of custody. The learned District Judge-1, Majalgaon, has also recorded finding after taking personal interview of the children that they are having affection of the

respondent. It also appears from the evidence that, respondent is having means to take proper steps for upbringing and education of the children compare to appellant/wife. It appears that appellant-wife has no independent source of income. As compare to appellant-wife, the respondent possess better means for wellbeing and welfare of the children. I do not find any fault in the impugned order passed by the learned District Judge-1, Majalgaon. There is no merit in the appeal. Hence, following order.

ORDER

- I. Appeal from order is hereby dismissed.
- II. In the circumstances, there shall be no order as to costs.

(**V.K. JADHAV, J.**)

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