

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

WRIT PETITION NO.3282 OF 2014

Anupama Sharma Petitioner

Vs.

Vikram Jagtiani Respondent

Mr. Y.H. Muchhala, Senior Advocate with Sharique Nachan,
Sagheer A. Khan i/by Bhawe & Co. for the Petitioner.

Ms. Radhika Mehta, Advocate for the Respondent.

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

Date : 9th August, 2016

P.C.

1 This petition challenges the order dtd. 25th February, 2014 by which the application filed by the petitioner for interim injunction to restrain the respondent-husband and his relatives from taking away the minor girl-child Nikhita from the petitioner. The Family Court, by the order impugned in the petition dismissed the same holding that in the interim application, does not allege any overt-act on the part of the respondent concerning the minor daughter which could give rise to apprehension for the petitioner that the respondent would forcibly take away the child from her

custody. The Family Court has also observed that the petitioner has not come to the court with clean hands and has filed the application for interim relief at a belated stage i.e. after filing various cases with the different courts. Therefore it has disbelieved the claim of the petitioner that there is possibility of the respondent forcibly taking away the child.

2 The petitioner is an American citizen, having declared herself as of Indian origin. The respondent is a citizen of India. Both were however residing in U.S.A. After the marital discord developed between them, the petitioner came to India and filed several proceedings against the respondent including proceedings under The Domestic Violence Act, a suit in the Bombay City Civil Court and a petition in the Family Court under the Guardian and Wards Act. The respondent-husband has on the other hand filed proceedings in the court in U.S.A.. There have been orders passed by the American court for production of the child before it. Mr. Muchhala, the learned senior counsel for the petitioner submits that these orders have been passed subsequent to filing of the present petition. The petitioner is yet to take appropriate steps in respect of these further developments. Therefore, the petitioner cannot advance any arguments on the orders passed by the American court in the present petition.

3 Ms. Mehta, the learned advocate for the respondent submits that in fact the allegations made in the application filed by

the petitioner are inconsistent with the claim for the interim relief. On the one hand she says that she does not even know the whereabouts of the respondent and that the respondent has abandoned the petitioner and the child. On the other hand, she claims that there is a threat from the respondent that he would take away the child. She also submits that there is no question of the respondent taking any such steps, since he has adopted due process of law for seeking reliefs by approaching the American courts.

4 I have perused the application for interim reliefs and find that there is not a single incident mentioned therein that would justify the apprehension that the respondent would forcibly take away the child. Hence, there is no infirmity in the impugned order. Therefore, the petition is dismissed.

5 At the request of Mr. Muchhala, ad-interim orders are extended for a period of three weeks from today.

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