

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 2570 OF 2016
IN
FIRST APPEAL NO. 988 OF 2016

Santosh Pundlik Ahire .. Applicant

In the matter between

Santosh Pundlik Ahire .. Appellant

Vs.

Yogita Santosh Ahire .. Respondent

Mr. N. R. Bubna for the Appellant/Applicant.

Mr. Gaurang C. Jhaveri i/b M. N. Sandhyanshiv for the Respondent.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 6th SEPTEMBER, 2016.

P. C. :

1. This is an application seeking stay to the execution of the order dated 02.04.2016 passed by the District Judge-2, Malegaon in Civil Misc. Application No.38 of 2015. The said application was filed by the mother of the minor child seeking custody of the minor child, who at the time of the filing of the application, was hardly one year. After the evidence was recorded in the said application, the Trial Court was pleased to direct the applicant herein, the father of the child, to hand over the custody of the child immediately to the mother. While doing so, the Trial Court has also reserved the applicant's right to visit and have the access to the child twice in a week as per the convenience of the parties.

2. It is submitted by the learned counsel for the respondent-mother that till today, the custody of the minor child of about 2 years is not handed over. Having regard to the fact that the child is female child and custody of the child should be with the mother, there is no question of granting stay to the impugned order passed by the Trial Court. Conversely, it is directed that the applicant herein shall hand over the custody of the child forthwith to the mother.

3. As to the maintainability of the application filed before the Trial Court under the provisions of Guardian and Wards Act, needless to state that the said issue can be decided at the time of hearing of the appeal but not at this stage.

4. The application for stay, therefore, stands dismissed with the above said directions.

[DR. SHALINI PHANSALKAR-JOSHI, J.]