

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5696 OF 2016

Smitha Govindan

Petitioner

versus

T.P.Sureshkumar

Respondent

Mr.Ashish Gaikwad i/by D.W.Bhosale for Petitioner.

Ms.Shabana Sothe for Respondent.

CORAM : P.D.NAIK, J.
(Vacation Court)

DATE : 13th May 2016

PC :

1. Heard learned counsel for the Petitioner and learned counsel for the Respondent. The Petitioner-wife has challenged the order dated 26 April 2016 passed by the Family Court, at Bandra, Mumbai granting access of minor daughter Krishnapriya to the Respondent-husband.

2. The Respondent has filed a petition under Section 13(1) (ia) and (ib) of Hindu Marriage Act for dissolution of marriage. The Petitioner is residing at Mumbai along with her daughter with her parents. The Respondent had filed an application for access during summer vacation-2015, which was partly allowed as per order dated 21 May 2015 of Family Court. As per the said order, access of the child was given to the Respondent for 3

hours from 25 May 2015 to 6 May 2015 in the children complex, Family Court, Bandra. There is dispute about compliance of the said order between the parties. The Respondent filed another application for access of daughter on 14 March 2016 before the Family Court. The Family Court directed the Marriage Councilor for interview of minor child. The report was submitted to the Court after interviewing the child. The report is annexed to this petition. The Family Court by order dated 26 April 2016 directed that the Respondent therein (Petitioner herein) shall give access of minor daughter to Petitioner therein (Respondent herein) from 15 May 2016 to 23 May 2016.

3. Taking into consideration that the issue of custody of minor daughter is involved in this petition, the matter was directed to be heard in chamber today at the end of board. The parties were directed to remain present along with the child for hearing in the chamber. After hearing the respective advocates and parties in the chamber, it was decided to interview the child. Hence, I interviewed the child in the absence of parties. The child is about 11 years of age. She is studying in school at Mumbai. From the interview, it was noticed that the child is not willing to go with father at Kerala or any other place and the child started crying. It was noticed that the child was not willing to go with her father. However, the child stated that her father can visit the place where she is residing with her mother.

It was noticed that rapport is required to be developed between the father and the child and presently it would not be suitable to give over night access as stated in the impugned order.

4. I have heard learned counsel for the parties and the parties to the petition. It was put to their notice the view expressed by the child. In view of the circumstances, the parties agreed for workable order to be passed in the petition.

5. Presently the Respondent-husband, as agreed, will stay in the house of the Petitioner situated at 'B' Wing, 2703, Runwal Pride, Behind 'R' Mall, Check Naka, Bhiwandi West, Mumbai-400 080 between 14 May 2016 and 31 May 2016. The Petitioner states that she has no objection for Respondent staying in the said premises. It is further directed that the Respondent will be permitted to have access of the child in the said house and the Petitioner will not obstruct the child from talking to the Respondent-husband. Both the parties are directed to maintain harmony. If child is inclined to go for shopping or outside the house with Respondent in nearby vicinity, the child should be accompanied by the Petitioner and Respondent. It is further directed that other family members of the Petitioner, who are residing in the said premises, shall also maintain peace and harmony. This arrangement is made for the aforesaid period.

6. In view of the aforesaid arrangement and modification of the order dated 26 April 2016, the question of implementation of order passed by the Family Court dated 26 April 2016 does not arise, as the said order stands merged in this order. After the lapse of period stipulated above, the Respondent-husband should be allowed to talk to the child on phone. The Petitioner states that the telephone number known to the Respondent is same and the said phone number will be continued in future. It is clarified that for any other further reliefs regarding access of the child, both the parties are permitted to move the Court as and when required.

7. In view of the above observations, the petition stands disposed of.

(P.D.NAIK, J.)

MST