

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2931 OF 2016

IN

FIRST APPEAL NO. 1090 OF 2016

Mr. Kadir Shirajuddin Chamanshaikh

...Applicant/
Appellant

Versus

Mrs. Jakiya w/o. Abdul Kadir Chamanshaikh

...Respondent

Mr. K.U. Nikam, for the Appellant.

Mr. A.P. Shinde, a/w Mr. Vaibhav Gaikwad, for Respondent.

CORAM : R.M. SAVANT, J.

DATE : 12th August 2016

PC. :

1. The above Civil Application has been filed for interim stay of the Judgment and Order dated 6th June 2016 passed by the Ad-hoc District Judge-1, Sangli. By the said order, the Application being the Miscellaneous Civil Application No. 108 of 2015 came to be partly allowed and the non Applicant i.e. the husband was directed to

handover the custody of the minor Farhat to the Applicant i.e. the Respondent herein.

2. The Applicant and the Respondent have two children, one boy i.e. Mustaqueem and girl i.e. Farhat. Insofar as Mustaqueem is concerned, he is about 13 years of age, whereas Farhat is around 11 years of age. The reasons why the custody of the girl child Farhat is to be handed over to the Respondent i.e. the mother have been mentioned in the impugned judgment and order. This Court whilst considering the above Civil Application for stay had declined to grant any ad-interim reliefs, as this Court is of the view that the order granting the custody of the girl child to the mother *prima facie* could not be taken exception to having regard to the reasons mentioned in the impugned order. The above Civil Application has thereafter come up for hearing on a couple of occasions and lastly today. Since it is desirable that till Farhat attains the age of 14 or 15 that she should be in the custody of the mother, in my view, it is not possible to accede to the request made for stay of the impugned judgment and order. The Respondent is personally present in Court and on her instructions learned Counsel Shri. Shinde appearing for her states that the Respondent would get Farhat admitted in the D.Y. Patil

International School, Lohgaon, Pune and that she has made necessary enquiries and that the management is ready to enroll the Farhat in the said School. The Respondent would accordingly enroll Farhat in the said D.Y. Patil at the earliest that is within two weeks from date and she would further see that there is continuity in her education. The learned Counsel Shri. Shinde also makes a statement that the Respondent would take care of all the needs of Farhat. Insofar as the Applicant is concerned, he would handover Farhat to the Respondent on or before 19th August, 2016. The Respondent would also be entitled to carry out his duties as father by buying things, etc. for Farhat, if he so feels necessary. The custody of Farhat would continue to remain with the Respondent till such time as the need for variation of the instant order arises. The Applicant would have access to Farhat on any three weekends of the month by prior intimation to the Respondent. The access would be in the Joggers Park, Kalyani Nagar between 12.00 noon to 5.00 p.m. The Applicant would hand over the custody back to the Respondent by 5.00 p.m. on the said day of access. The custody of Farhat to be handed over by the Applicant to the Respondent in the District Court at Sangli on 19th August 2016.

3. The above Civil Application is accordingly disposed of.
4. Parties to act upon an ordinary copy of the instant order duly authenticated by the Court Sheristedar/Associate.

[R.M. SAVANT, J.]