

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
MISCELLANEOUS APPLICATION NO.1 OF 2016
IN
PARSI SUIT NO.10 OF 2012**

Kamal Burzine Karai	... Applicant No.1
Now Kamal Rahul Kapoor	
<i>Versus</i>	
Burzine Cawas Karai	... Applicant No.2

Ms Pooja Jalan, for Applicants Nos.1 and 2.

**CORAM: G.S. PATEL, J
DATED: 2nd August 2016**

PC:-

1. Heard.

2. The Suit was for divorce by mutual consent under Section 32-B of the Parsi Marriage & Divorce Act, 1936. It was decreed on 4th October 2012 (R.S. Dalvi, J.). There was also an order in terms of Consent Terms. These are annexed at Exhibit “B” to the present Miscellaneous Petition No.1 of 2016. Those Consent Terms provided in clause 3 that the custody of the parties’ minor daughter would remain with the father. There was also a provision for access.

3. The minor is today about 10 years old. The parties have agreed to modify the order of custody and access so that it is now the mother, Plaintiff No.1, who will have custody and the father will have access on agreed terms.

4. Both parties are before me in Court. They have tendered revised Consent Terms at Exhibit "D" to the application. Both have signed these. Given the age and the gender of the child, I am myself inclined to accept that this should in fact be the correct order of custody and access.

5. The present application is, therefore, allowed in terms of prayer Clauses (a) and (b).

6. The decree dated 4th October 2012 is stand modified to this extent.

(G. S. PATEL, J.)