

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 106 OF 2017**

Mrs. Arti Shivram Patil @ Artikumari N. Naik,
Daughter of late Shri Nagba Naik, Aged about
39 years, in service, Indian National, and
presently R/at H.No.85. J.N.C., Viera Nagar,
Housing Colony, Chicolna, Bogmalo, Goa.

.... Petitioner

Versus

Mr. Shivram A. Patil, son of late Shri Anantrao
Patil, aged about 40 years, service, Indian
National, and R/at H.No. 435, Marcel-Goa.

.... Respondent

Mr. Deepak Gaonkar, Advocate for the Petitioner.
Mr. S.D. Patil, Advocate for the Respondent.

CORAM:- C. V. BHADANG, J.

DATE:- 3rd FEBRUARY, 2017

ORAL JUDGMENT:

Rule made returnable forthwith. The learned Counsel for the respondent, waives service. Heard finally by consent of parties.

2. The short contention raised on behalf of the petitioner is that although, the parties had agreed for visitation rights to the respondent for one hour on 2nd Saturday of every month, the learned Trial Court has enlarged the same granting visitation rights

on every 2nd and 3rd Sunday from 10:00 a.m. to 5:00 p.m. For this purpose, the Trial Court has also directed that the child shall be handed over to the respondent outside the premises of the Civil and Criminal Court at Vasco at 10:00 a.m. on every 2nd and 3rd Sunday of the month and the respondent shall return the child at 5:00 p.m.

3. The contention is that this grossly travels beyond the pleadings and agreement between the parties. It is contended that the claim for visitation rights, was for an hour, once in a month, which was agreed upon by the parties.

4. On behalf of the respondent, it is not disputed that there was an agreement all along that the respondent shall give visitation rights for one hour every month on 2nd Saturday of the month. On behalf of the respondent, reliance is placed on Article 23 of the Family Laws, in order to submit that in an appropriate case, the Court can enlarge the visitation rights if, it is found to be in the interest of the minor. The learned Counsel however, does not dispute and it is a matter of record that the impugned order does not spell out any such reasons or makes reference to Article

23, so as to enlarge the visitation rights over and above, than what are agreed by and between the parties. In such circumstances, it would be appropriate that the Trial Court reconsiders the application and then passes appropriate orders thereon.

5. In such circumstances, the following order is passed:

ORDER

- (a) The petition is partly allowed.
- (b) The impugned order is set aside to the extent of grant of visitation rights to the respondent.
- (c) The Trial Court shall pass fresh orders in this regard after hearing the parties, in accordance with law.
- (d) Parties to appear before the Trial Court on 18.02.2017 at 2:30 p.m.
- (e) Rule is partly made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.