

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NOS.202 and 627 of 2014****WRIT PETITION NO.202 of 2014**

Dr. Pratima Mohan Kessarkar
 Daughter of Mohan Tukaram Kessarkar
 41 years old, Service
 Residing at NIO Staff Colony
 Quarter NoD-4, Dona Paula .. Petitioner

Vs

Mr. Ajit Narcinva Panchwadkar
 alias Ajit Panchwadkar
 Son of Narcinva Anant Panchwadkar
 46 years old, Service
 Residing of Sapana Splendor
 Flat NoA/1-4, Second Floor
 Fatorda, Goa. .. Respondent

None for the petitioner, though served.

Mr. V. P. Thali, Advocate for the respondent.

AND**WRIT PETITION NO.627 of 2014**

Mr. Ajit Narcinva Panchwadkar
 alias Ajit Panchwadkar
 Son of Narcinva Anant Panchwadkar
 46 years old, Service
 Residing of Sapana Splendor
 Flat No.1/1-4, Second Floor .. Petitioner/
 Fatorda, Salcete, Goa. Ori. defendant

Vs

Dr. Pratima Mohan Kessarkar
 Daughter of Mohan Tukaram Kessarkar
 40 years old, Service
 Residing at NIO Staff Colony .. Respondent/
 Quarter NoD-4, Dona Paula Ori. plaintiff

Mr. V. P. Thali, Advocate for the petitioner.

None for the respondent, though served.

Coram :- M. S. SONAK, J.

DATE :- 15th May, 2017

ORAL JUDGMENT :-

Neither Dr. Pratima Kessarkar nor her Advocate are present, despite the matter appearing on cause list on last and present occasion. Mr. Thali appears for Mr. Ajit Panchwadkar.

2. On 08/05/2017, the following order was made :

“Neither the petitioner, nor her Advocate is present. Mr. V.P. Thali appears for the respondent-husband.

2. Mr. Thali points out that the order impugned in Writ Petition No. 202/2014 was modified by the learned Trial Judge, upon an application taken up by the petitioner-wife. Mr. Thali points out that in view of such modification, nothing really survives in Writ Petition No.202/2014. He, however, submits that the order upon modification has been challenged by the respondent-husband by instituting Writ Petition No.627/2014.

3. Since, this matter was specifically fixed during the vacation, it is not possible to simply adjourn the matter. However, in order to grant further opportunity, S.O. to 12th May, 2017.”

3. Mr. Thali was also requested to inform Mr. Vaz that the matter would be taken up on the returnable date indicated in the order dated 08/05/2017 or some suitable date thereafter. Mr. Thali states that he had issued necessary intimation to Ms. Sonali D'Costa, who is the Junior of Vaz. Mr. Thali also states that he was informed by Ms. Sonali D'Costa that Mr. Vaz no longer appears in the matter.

4. The challenge in W.P.No.202/2014 is to the order dated 15/01/2013 made by the learned Trial Judge in the matter of visitation rights. Thereafter, it appears that Dr. Pratima Kessarkar, who is the petitioner in W.P.No.202/2014, applied for modification of the order dated 15/01/2013. Such modification was in fact granted by the learned Trial Judge by order dated 27/08/2014. It is this order dated 27/08/2014, which has been impugned by Mr. Ajit Panchwadkar, in W.P. No.627/2014. Now that the order dated 15/01/2013 has already been modified by the learned Trial Judge on the basis of an application of Dr. Pratima Kessarkar, it is reasonable to proceed on the basis that Dr. Pratima's grievance against the order dated 15/01/2013, no longer survives. Accordingly, there is no reason to interfere with the order dated 15/01/2013, which in any case, stands modified by an order dated 27/08/2014, in W.P.No.202/2014. Writ Petition

No.202/2014 is accordingly disposed of.

5. Mr. Thali, the learned Counsel for Mr. Ajit Panchwadkar also states that Mr. Ajit will not press W.P.No.627/2014, which challenges the modified order dated 27/08/2014. However, Mr. Thali submits that Shrawan may get admission in some educational institution outside the State of Goa. In case this happens, then, liberty be reserved to apply for further modification.

6. Orders in relation to visitation, by their nature, are not final. Depending upon change of circumstances and keeping in mind the interest of Shrawan, the parties are always at liberty to apply for variation. Such applications, as and when made, can be considered by the learned Trial Judge in accordance with law and on their own merits. Accordingly, liberty is granted to both Dr. Pratima Kessarkar as well as Dr. Ajit Panchwadkar.

7. Rule in both the petitions is disposed of in the aforesaid terms. There shall, however, be no costs.

M. S. SONAK, J.

SMA