

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12223 OF 2016

Mr. Manish Gajanan Inamdar	..Petitioner
Versus	
Mrs. Ashwini Ghodke Inamdar	..Respondent

Mr. S. A. Sawant for the Petitioner.
Mr. H. P. Vyas for the Respondent.

CORAM : R. M. SAVANT, J.
DATE : 17th FEBRUARY, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 04.08.2016 passed by the Learned Judge of the Family Court No.3, Pune, by which order, the Civil Misc. Application No.108 of 2012 filed by the Respondent herein came to be allowed and resultantly, the Consent Terms which were filed between the parties in P.D. No.170 of 2009 stood modified to the extend mentioned in the operative part of the impugned order. The operative part is reproduced hereinunder for the sake of ready reference :-

- “1. Civil Miscellaneous Application is allowed.
2. The consent terms filed in P.D. No.170/2009 stands modified.
3. The applicant shall have overnight access of the child on 2nd and 4th Saturday and Sunday of each month.
4. Applicant shall have overnight access of the child for first half of his total summer and Christmas vacation days. The school holidays of the child shall be divided equally

- by the applicant and non applicant.
5. Applicant shall get the birthday access of the child one day before his actual birthday for 4 hours.
 6. The applicant is allowed to talk to the child on land line telephone on all Wednesdays and Fridays during 8.00 p.m. to 9.00 p.m.
 7. The applicant is allowed to attend parents meeting and all school functions and events without creating any embarrassing situations for the child.
 8. The non-applicant shall inform the applicant without three hours if the child is required to be admitted in hospital for health related issues.
 9. The applicant is allowed to take the child for attending family/friends functions and is also allowed to take the child outside the jurisdiction of this Court only during her access days.
 10. This access arrangement shall start from 01.09.2016 onwards.
 11. The applicant and non-applicant are expected to make the above access arrangement workable considering the convenience of child.”

2 It is not necessary to go into the reasons as to why the Respondent herein filed the Civil Misc. Application for modification of the Consent Terms having regard to the fact that area of controversy in so far as the operative part of the impugned order is narrow. Though the Learned Counsel for the Petitioner contended that the very maintainability of the Civil Misc. Application No.108 of 2012 is in question in view of the fact that there were no change of circumstances since the filing of the Consent Terms of 29.01.2010. He however fairly conceded that the controversy or dispute is only as regards directions contained in clauses 3 and 4 of the operative part of the impugned order.

3 In so far as clause 3 is concerned, overnight access of the child Atharva who is today 12 years old is granted to the Respondent i.e. wife on 2nd and 4th Saturday and Sunday of each month. The same seems to have a rationale in view of the fact that the Respondent is a government servant and has therefore a holiday on every 2nd and 4th Saturday of the month. Hence, the direction as contained in clause 3 of the operative part of the impugned order need not be interfered with.

4 In so far as clause 4 is concerned, the school holidays are to be divided equally between the Applicant and the non-Applicant. Hence the totally school holidays as per the calendar of the school would be divided equally between the Petitioner and the Respondent. The Applicant would the first access in the first half of the vacation and the Respondent would have access in the second half of the vacation. If the child Atharva goes for a tour conducted by the school, then the duration of the said tour would be deducted from the concerned vacation and the balance days would then be divided equally between the Applicant and the Respondent, meaning thereby, in case the summer vacation is of 50 days and the child goes on a tour for 10 days, then balance 40 days would be equally divided between Applicant and the Respondent. The same would also be applicable for other vacations.

5 In so far as the other clauses of the operative part of the impugned order are concerned, in my view, no interference is called for with the directions.

6 It is expected of the Applicant and the Respondent who are the parents of the child that they would give prime importance to the welfare of the child and his well being. With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]