

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

CIVIL WRIT PETITION NO.2065 OF 2018

Yelena Kuznetsova

... Petitioner

Vs.

Mr.Junaid Kader Shaikh and anr.

... Respondents

Ms.Geeta Mulekar i/by Mr. Prathamesh Samant for the Petitioner.
None for the Respondents.

CORAM : G.S.KULKARNI, J.

DATE : FEBRUARY 16, 2018.

P.C.:

. Heard learned counsel for the petitioner. The challenge in this petition is to the order dated 8th December, 2017 passed by the learned Judge, 6th Family Court at Bandra, Mumbai, which reads thus:-

“Read application. Heard learned advocate Mrs.Deshmukh. Perused the contents in the petition. The petitioner apprehends that two and half year old minor girl child who is in his custody would likely to be removed by the Respondent out of India, because the child's passport is in the custody of the mother. If respondent would remove the child obviously it will create multiplicity of the proceedings and would cause hardships to the petitioner. It is desirable in the interest of justice to restrain by way of ad-interim injunction to the respondent from taking away or removing the minor

child Saabreen Junaid Shaikh two and half years of age outside India and from the custody of the father till further orders.

Petitioner to comply under order 39 Rule 3A of CPC.”

2. It is stated that this order is an ex-parte order. The petitioner was not heard by the court, when the above order was passed. It is also submitted that the application as filed by the respondents for interim reliefs being Interim Application No.199 of 2017 itself is pending adjudication. It is submitted that the said application is now posted for hearing before the Family Court on 8th March, 2018.

3. Considering the nature of the impugned order and that the interim application itself is pending adjudication before the Family Court, it is in the interest of justice that the petitioner approaches the Family Court either by moving an appropriate application for vacating of the impugned order dated 8th December, 2017 or proceed to argue the Interim Application No.199 of 2017, which is now posted for hearing on 8th March, 2018.

4. Needless to observe that, as the said interim application is pending for sometime, the learned Judge of the Family Court shall endeavour to take up the said application and dispose of the same in accordance with law as expeditiously as possible. The learned Judge of

the Family court shall also bear in mind that the Visa of the petitioner is stated to expire on 29th March, 2018 and therefore, it would be appropriate to consider the request of the petitioner to dispose of the interim application as filed by the respondents on or before 20th March, 2018. Certainly, the respondents shall not have no objection to this course of action as the application itself is moved on behalf of the respondents.

(G.S.KULKARNI, J.)

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