

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.95 OF 2016
IN
FAMILY COURT APPEAL NO.2 OF 2014

Shrikant Waman Shenoy.] ... Applicant

Versus

Padma Shrikant Shenoy.] ... Respondent

Mr. Niranjan A. Mogre for Applicant.
Ms. T. F. Irani for Respondent.

CORAM :- K. K. TATED &
SARANG V. KOTWAL, JJ.
DATE :- 02 FEBRUARY, 2018

P. C. :-

1. This Civil Application is preferred by the Applicant / original Appellant in Family Court Appeal No.2 of 2014. By the said Appeal, the Appellant has challenged the Judgment and Decree dated 17/10/2013 passed by the Judge, Family Court No.5, Mumbai, in Petition No.D-45 of 2011 whereby the Applicant's prayer for custody of his son Gaurav was dismissed and the Applicant was granted access every Sunday from 4.00 p.m. to 6.00 p.m.

2. The present Civil Application is preferred by the Applicant praying that pending the hearing and final disposal of the petition, he should be granted custody of his son Gaurav every alternate weekend i.e. Saturday and Sunday; and also for half of the period of school vacations / holidays during festivals, etc.

3. In the past, the Applicant / Appellant had preferred Civil Application No.362 of 2014 which was disposed of by the Order dated 14/10/2014 wherein this Court had increased the access time of the Applicant for his son Gaurav to make it from 3.00 p.m. to 8.00 p.m. every Sunday.

4. In the year 2015, in another Civil Application No.107 of 2015, by the Order dated 10/09/2015, this Court had granted access of the child Gaurav to the Applicant between 10.00 a.m. to 4.00 p.m. on 17/09/2015 and between 10.00 a.m. to 2.00 p.m. on 18/09/2015 on account of Ganesh Festival. This Court again vide Order dated 30/10/2015, granted access for three days in Diwali i.e. 9th, 10th and 11th November, 2015.

5. After filing of this present Civil Application, this Court, vide Order dated 27/04/2016, had directed that both the parties as well as their sons i.e. Waman (elder son) and Gaurav should attend counseling sessions held by Dr. Harish Shetty from time time.

6. This Court again vide Order dated 24/08/2017 passed in the present Civil Application, had allowed the Applicant to have the access of Gaurav during the Ganapati Festival between 10.00 a.m. to 4.00 p.m. on 25/08/2017 and between 10.00 a.m. to 2.00 p.m. on 26/08/2017.

7. We have perused the reports submitted by Dr. Harish Shetty from time to time. We have heard the learned Counsel for the parties.

8. We are informed that the said child Gaurav will attain majority in January 2019. So far as the holidays and school vacations are concerned, it is only a question of three major vacations i.e. Summer Vacation, Diwali Vacation and Christmas Vacation, before he attains majority. The Applicant – father wants access specially for Ganapati Festival, besides the regular access which is directed to be given by the previous order. As the record and the report of Dr. Harish Shetty indicate that both the brothers i.e. Waman and Gaurav are bonding well together and if the access as prayed is granted, there is further possibility that the bond would be stronger between the brothers. In the circumstances, we pass the the following Order :

ORDER

- (i) The Respondent – wife shall give access of Gaurav to the Applicant - husband on 13/09/2018 between 10.00 a.m. to 8.00 p.m. and on 14/09/2018 between 10.00 a.m. to 8.00 p.m.

- (ii) During the Diwali Holidays on 7th, 8th and 9th October, 2018, the Respondent – wife shall allow overnight access to the Applicant – husband.
- (iii) The aforementioned two clauses are in addition to the regular access which the Applicant – husband is entitled to, pursuant to the earlier orders passed in that behalf.
- (iv) Civil Application is disposed of in the aforesaid terms.

(SARANG V. KOTWAL, J.)

(K. K. TATED, J.)