

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition (ST) NO. 11165 OF 2018

Ravindra Harshad Parmar,

...Petitioner

Versus

Dimple Ravindra Parmar

...Respondent

....

Mr. Yuvraj P. Narvankar, a/w. Vasant R. Kadam, Advocate for the
Petitioner.

Mr. Abhijeet Sarwate, Advocate for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 03rd MAY, 2018

PC.

1. Heard Mr.Yuvraj Narvankar, learned counsel for the
petitioner and Mr.Abhijeet Sarwate, learned counsel for the respondent,
at length.

2. By this Petition under Article 227 of the Constitution of India,
the petitioner has prayed for directing the learned Judge of the Family
Court, Pune to dispose of the application dated 24.8.2015 at Exhibit-10
within a period of two weeks on its own merits.

3. While opposing the Petition, Mr. Sarwate submitted that
application dated 24.8.2015 is rendered infructuous as the petitioner

had filed several applications for access and the same have been decided. He has invited my attention to :

- (i) application dated 4.10.2017 at Exhibit-54 and the order dated 27.10.2017 passed by the learned Judge on that application, and
- (ii) application dated 18.6.2014 at Exhibit-66 and the order dated 6.5.2016 passed thereon.

4. Mr. Sarwate, therefore, submitted that as the application dated 24.8.2015 is rendered infructuous. Consequently this Petition has become infructuous and the same may be disposed of accordingly.

5. The petitioner has filed application dated 24.8.2015 at Exhibit-10 in the Family Court *inter alia* praying for following reliefs :

- “i. That pending the hearing and final disposal of the present petition, the Respondent be restrained by an order and injunction from prosecuting or in any manner continuing to litigate P.A. No.1256 of 2012 and P.B. No.11 of 2014, and any other petitions pending before this Hon'ble Court;
- ii. That pending the hearing and final disposal of the Petition this Hon'ble Court be pleased to grant temporary custody of Reyansh to the Petitioner, during entire Diwali and/or Christmas holidays, and minimum 4 weeks during Summer vacation, as it is in the best interest of Reyansh to spend time and bond with his father, which he has been unable to do since April, 2012, except for 8 days in November, 2013;
- iii. That pending the hearing and final disposal of the

Petition this Hon'ble Court be pleased to allow the Petitioner daily phone and Skype access to Reyansh.

- iv. That pending the hearing and final disposal of the Petition this Hon'ble Court be pleased to allow temporary custody of Reyansh to the Petitioner's parents ("grandparents") who currently reside in Mumbai, every alternate weekend in Mumbai and weekly phone access to Reyansh.
- v. That pending the hearing and final disposal of the Petition this Hon'ble Court restrain the Respondent and/or anyone acting on her behalf, from using legal or other means to prevent access to Reyansh from the Petitioner or his parents, including filing criminal complaints;"

6. It is also not in dispute that till date said application is not disposed of by the Family Court. On 4.10.2017, the petitioner filed application Exhibit-54 for access during Christmas vacation. Prayer clauses (a) and (b) of that application read thus :

- "a. That the Petitioner's parents be allowed to remain present with Reyansh to celebrate his birthday on 29/10/2017;
- b. That the Petitioner's parents be granted temporary access of Reyansh from 23/12/2017 to 30/12/2017 during Reyansh's Christmas vacation;"

7. The petitioner also filed application dated 18.6.2014 at Exhibit-66 *inter alia* praying for following reliefs :

- "(a) The Respondent may kindly be permitted to freely speak and/or communicate with his son Reyansh on telephone/mobile/Skype or by any other mode daily;

- (b) The Petitioner and/or any other person acting on her behalf be restrained from committing any act of any nature thereby preventing, alienating and or obstructing in any manner the Respondent from freely speaking and/or communicating with his son, Reyansh on telephone/mobile/Skype or by any other mode daily;
- (c) The Respondent's parents (Harshad and Hiranakshi Parmar) may kindly be permitted to freely speak and/or communicate with Reyansh on telephone/mobile/Skype or by any other mode, at least weekly;
- (d) The Petitioner and/or any other person acting on her behalf be restrained from committing any act of any nature thereby preventing, alienating, and/or obstructing in any manner the Respondent's Parents (Harshad and Hiranakshi Parmar) from having access of grandson Reyansh at Pune and/or permit them to bring him to their home in Mumbai every alternate weekends;
- (e) The Respondent may kindly be granted the temporary custody of Reyansh in India for a period of 4 weeks during every summer vacation and 2 weeks during every Diwali vacation, without any supervision or conditions;
- (f) The Petitioner and/or any other person acting on her behalf be restrained from committing any act of any nature, including filing criminal complaints and/or withholding possession of the Respondent's United States passport (and other travel documents), thereby preventing the Respondent from returning to the United States while he is visiting India during his temporary custody period/time with Reyansh;
- (g) The Petitioner and/or any other person acting on her behalf be restrained from committing any act of any nature, including filing criminal complaints and/or withholding possession of the Respondent's parents' (Harshad and Hiranakshi Parmar) United States

passports (and other travel documents) thereby preventing them from returning to the United States or freely stay in India;”

8. By order dated 6.5.2016, the learned Judge of the Family Court partly allowed that application.

9. After considering the prayers made in application dated 24.8.2015 at Exhibit-10 and the applications at Exhibit-54 and 66, it cannot be said that said application is rendered infructuous. As the Family Court has not decided the application for more than two and half years, the Family Court is directed to dispose of that application within two weeks from production of the authenticated copy of this order. Petition is disposed of. Order accordingly.

10. All concerned parties, including the Family Court, to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)