

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION No. 138 OF 2018

Sadaf Fawaz Kazi ... Applicant
Vs.
Fawaz Illyas Kazi & Anr. ... Respondents

Mr. Nitin P. Deshpande, for the Applicant.

Mr. Ashish V. Pawaskar, for the Respondent No. 2.

CORAM : A. M. DHAVALA, J.
DATE : SEPTEMBER 5, 2018

PC :-

Heard the learned advocates appearing for the respective parties. It is not disputed that by this application filed under S. 24 CPC, the applicant seeks transfer of Misc. Civil Application No. 20 of 2018, filed under S. 25 of Guardians & Wards Act, 1890 pending in the Court of District Judge, Ratnagiri to the district court, Thane. The wife is residing with child aged 4 years, at Navi Mumbai. Wife is serving at Vashi and the child is taking pre-primary education at Panvel. The husband is serving in Merchant Navy. The facts indicate that

convenience of wife should be looked into, as laid down in *Sumita Singh Vs. Kumar Sanjay*¹. After hearing the learned counsel appearing for the parties, I pass following order.

ORDER

- (i) The Application is allowed, subject to condition that on each date, the wife shall take the child to the court and permit the husband to take custody of the child during the court working hours only on condition that husband will return custody of the child to the wife by the end of the day. This order of visitation is without prejudice to the rights of the husband to claim any additional benefits, as may be permissible under the Guardians & Wards Act, 1890.
- (ii) Misc. Civil Application No. 20 of 2018 pending in the Court of District Judge, Ratnagiri is transferred to the Court of the District Judge, Thane. The record & proceedings of Misc. Civil Application No. 20 of 2018 shall be immediately transmitted to the Court of the District Judge, Thane. The parties are directed to appear before the District Judge, Thane on 1st October, 2018.

1 AIR 2002 SC 396

- (iii) The District Judge, Than shall permit the wife to attend the pending proceedings late, i.e. after the school of the child is over.
- (iv) In case the wife or her advocate are not in a position to attend the court on the fixed date, they shall give prior intimation to the husband and his advocate.
- (v) Civil application is disposed of in the above terms.

Sd/-
[A. M. DHAVAL, J.]

Vinayak Halemath