

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7016 OF 2015
WITH
CIVIL APPLICATION NOS.2221 OF 2016
IN
WRIT PETITION NO. 7016 OF 2015

Dharmendra Singh Gosain .. Petitioner
vs.
Sarita D. Gosain .. Respondent

Mr. Lobo Glenn Anthony for the Petitioner.
Ms Garima Randhawa i/b Ms Shabana F. Sothe for the Respondent.

CORAM : M. S. SONAK, J.
DATE : 5 DECEMBER 2018.

P.C. :-

- 1] Heard the learned counsel for the parties.
- 2] Mr. Lobo, the learned counsel for the petitioner, submits that since the custody of Ishant was forcibly taken by the respondent – wife, the petitioner was entitled to interim custody and the impugned order rejecting the application for interim custody warrants interference.
- 3] Upon due consideration of the submissions made by the learned counsel for the petitioner and upon perusing the material on record, this is not a fit case for grant of interim custody to the petitioner. There is a dispute as to whether the custody of Ishant was

taken forcibly by the respondent – wife. In any case, since 2013, at least the custody of Ishant is with the respondent -wife. Therefore, it will not be in the interests of Ishant to disturb the custody at this stage. There is no error in the interim order so as to warrant interference.

4] Mr. Lobo however, states that at least access was required to be granted to the petitioner. This submission is quite correct. In fact, in the impugned order even the Family Court has stated that the petitioner is entitled for access/visitation during pendency of the petition. The learned counsel for the respondent – wife also states that in principle the respondent – wife is not averse to any reasonable order as regards access. She however submits that such order may be made taking into consideration the convenience/examination schedule of Ishant who is presently 17 years of age.

5] Mr. Lobo, the learned counsel for the petitioner, points out that there is already an application pending before the Family Court for access. He requests that some directions be issued for disposal of such application expeditiously. Again, this request is quite

reasonable and it will be possible to dispose of this application, now that the learned counsel for the respondent – wife has also taken a very reasonable stand on the issue of access.

6] Therefore, although the impugned order is not being interfered with, the learned Family Court is directed to dispose of the pending application for access as expeditiously as possible and in any case within a period of four weeks from today. The learned Family Court to take note of the statement made on behalf of the respondent that she is, in principle, not averse to any reasonable access order taking into consideration the convenience of Ishant.

7] This petition is accordingly disposed of with the aforesaid directions.

8] Civil Application does not survive and the same is disposed of.

9] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)