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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 10 OF 2018
IN
PARSI SUIT NO. 9 OF 2006**

Murad D Oomrigar	...Plaintiff
<i>Versus</i>	
Mahrukh Murad Oomrigar	...Defendant

Ms Zenobia S Irani, for the Plaintiff.
Mr PM Rustomkhan, for the Defendant.

CORAM: G.S. PATEL, J
DATED: 26th July 2018

PC:-

1. The application on behalf of the wife, Mahrukh in this Notice of Motion is for leave to take the parties' son, Vihan, abroad for a six week holiday in America with some travel in that country. Vihan has been diagnosed with autism.

2. The proposal is to leave on 31st July 2018 from Mumbai for Washington DC. While there, the Defendant and Vihan will stay with the Defendant's daughter, Zarana at 1723, Fantasia Circle, Herndon, VA 20170. The return is planned for 17th September 2018

departing Washington DC and arriving in Mumbai in the early hours of 19th September 2018.

3. I will require the Defendant to adhere to these travel dates.

4. While in America, the Defendant proposes to take Vihan on a trip to various places including Virginia Beach, Ocean City, Luray Caverns, the Blue Ridge Mountains, New York City, Niagara Falls, Washington DC itself and, if possible on a short cruise. None of this can be objectionable.

5. Mrs Irani on behalf of the Plaintiff makes a submission that Vihan should not be sent on this trip because during the last visit in December 2017 through January 2018 there was allegedly some untoward events that according to her were narrated by Vihan himself. She submits that an evaluation report be called for from Dr Shetty. I do not think it is possible to accept the submission that a Court is incapable of assessing a situation such as this, and in every single case the decision must be preceded by some sort of a psychological evaluation. This is not to deny or diminish the value of Dr Shetty's contribution in this and other matters. I am not addressing that at all. I only emphasize that if indeed matters were quite so grave, then there ought to have been something more than filing of a mere application by the Plaintiff father, whether in contempt or otherwise. An order of contempt does not serve his interest and no application has been made, so far as I can tell, between January 2018, when Vihan returned from his last trip, to limit the Defendant's access or alter previous orders of access or

temporary custody. I do not think that there is significant value to be attached to the apprehensions being expressed today.

6. One recurrent complaint throughout this matter has been that the Defendant has chosen virtually to abandon the Zoroastrian faith and has turned to an alternative religion. There are complaints that she is now a follower or adherent of Jehovah's Witnesses. Whether there is an actual apostasy or not is a matter for the trial and is one of the issues in the matrimonial dispute between the parties. Mrs Irani makes a complaint that the Defendant and her son-in-law, Zarana's husband, took Vihan to some place in Virginia where he was apparently exposed to another religion. Mrs Irani says that this has been narrated to her client by Vihan himself.

7. I am making two things clear to the Defendant so far as Vihan is concerned. Given his medical condition, should he ever report any such incident, I will accept it as a truth. I, therefore, expect that the Defendant must put aside during the time of this visit and whenever Vihan is in her care all considerations of another religion and she must not and will not at any stage and in any manner however tangential expose Vihan to any other faith or teachings. The Defendant is personally present in Court and she instructs Mr Rustomkhan on her behalf to accept this condition. Her undertaking is accepted as an undertaking to the Court. I am making it plain that should I find a slightest breach of this condition, I will make an order against the Defendant restricting or even taking away all access that she may have to Vihan. I cannot stress this enough. This question of faith is an extremely sensitive matter and Vihan has to be shielded from any conflict or trauma at any cost.

8. Vihan's passport will be handed over to the Defendant when she returns Vihan at the end of the day today after her access is over.
9. Mr Rustomkhan states that Vihan and with his passport will be returned to the custody of the Plaintiff at the end of the day on 19th September 2018.
10. The Notice of Motion is disposed of in these terms. No costs.
11. List the matter for directions on the supplementary board on 25th September 2018.

(G. S. PATEL, J)