

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION O. NO.1197/2017

IN

FAMILY COURT APPEAL NO.45/2016

Rajesh s/o Motiramji Gaikwad

...Versus...

Yogita w/o Rajesh Gaikwad

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri J.M. Shamkuwar, Counsel for appellant
Ms Rama Kukday, Counsel h/f Shri A.K. Choube, Counsel for respondent

**CORAM : SMT. VASANTI A NAIK AND
ARUN D. UPADHYE, JJ.**

DATE : 19/01/2018

Heard.

It was canvassed before us on a couple of earlier dates of hearing by the learned Counsel for the appellant that the minor sons of the parties were not willing to stay with their mother-respondent or even spend time with her for a couple of hours on weekends. It was stated that this Court may interview the minor sons to find out whether they were willing to talk to the respondent – mother and to stay with her during the vacations, as was directed by the Family Court in the judgment dated 28/7/2015 in Petition Nos.D-19/2010, C-86/2010 and E-356/2010.

We have interviewed the minor boys for quite some time in the chamber. The boys have a good sense of

understanding and were quite mature for their age. The minor boys were very well behaved. After talking to them for quite some time, we gauged that they were ready to meet the respondent – their mother and also stay with her.

The boys had expressed the difficulty that when they reside with the respondent-their mother, they are not dropped to the swimming classes and the other classes which they attend during the vacations.

The respondent, who is present in the Court today, has informed her learned Counsel and it is conveyed to this Court that the respondent herself would drop the children to the classes and bring them back to her parental home where she presently resides with her father, mother and her brother.

The minor children were not able to point out any wrongful behaviour on the part of the respondent or their grandparents or their maternal uncle.

Since the children are ready to meet their mother and also reside with her during the vacations, it would be necessary to pass an appropriate interim order pertaining to access. However, since the elder of the two boys is studying in the 10th standard and it would not be proper to send only the younger son to the mother as he would feel secure when his elder brother accompanies him to his mother. Since the elder son would be appearing at the 10th standard examination this summer, we pass the following order :-

(1) That the respondent would have an access to both the children on every Sunday from 4:00 p.m. to 6:00 p.m.

(2) After the 10th standard examinations of the elder son are concluded, the respondent would have an access to her sons for 50% of the vacation period, that is, Summer vacations, Diwali vacations and Winter vacations and the sons would remain with the respondent in the parental house of the respondent and the respondent would be entitled to take them out of Nagpur for outings or on vacations.

(3) On every Sunday, the respondent would pick-up her sons from Shatabdi square near Narendra, Nagpur at 4:00 p.m. and the respondent would drop the sons to Shatabdi square near Narendra Nagar at 6:00 p.m.

(4) During the vacations, the appellant and the respondent should mutually decide from where the boys would be picked-up and dropped while spending 50% of the vacation holidays with the respondent.

With these directions, we dispose of the civil application.

JUDGE

JUDGE

Wadkar