

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

APPEAL FROM ORDER NO.46 OF 2018

PRAMOD MANGALMURTI JOSHI  
VERSUS  
SANDHYA ALIAS PRANJALI PRAMOD JOSHI

...

Advocate for the Petitioner : Dr.Godbole R.J.  
Advocate for the Respondent : Shri Kingaonkar Nandkumar Y.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 24<sup>th</sup> April, 2019**

**Per Court:**

1            This matter was heard on 03.04.2019 and the suggestion of the Respondent was recorded as under :-

"1.    *Learned advocate for the respondent submits that there is a possibility that the respondent may relocate herself along with the child at Aurangabad for the convenience of all the parties and for the proper treatment of herself and the education of the child. He submits that the respondent along with her child would be present on the next date in this matter.*"

2            The issue is as regards the custody of the child (Shripad), who is minor and presently residing with his mother/ Respondent. Pursuant to the above order, the learned Advocates for the respective sides, the Appellant/ former husband and the Respondent i.e. former wife and the child were present in my chambers. Initially, an interaction took

place in the presence of all the parties. The Appellant had a discussion with me, in which, he has stated that even if the Respondent relocates herself along with the child at Aurangabad, he would now not pay any further amount in view of the permanent alimony of Rs.4 lac already paid to her vide the Demand Draft dated 04.01.2018.

3           The learned advocate for the Respondent submitted that it would not be possible for her to relocate herself from Parbhani to Aurangabad if the Appellant does not fund for the daily expenses at least of the child and the rent of the accommodation.

4           Pursuant to the above, I requested the learned Advocates to allow the child and the wife to have a discussion with the court. In the presence of the mother, the child, who appeared to be restless, stated that he desired to live with the mother. Since the child found himself in the chambers of the Judge, he desired to go outside the chambers and he was permitted to do so. Thereafter, I interacted with the mother and enquired about the education of the child and his treatment. Her answers indicate that she was capable of taking care of the child, administering medicines to the child as are prescribed and allowing the child to take education. I found that any separation of the child from the mother, would have an adverse impact on the child as well as the mother. The child is said to be suffering from Sensory Processing Disorder and latency in reactions. Though the mother appears to have little difficulty in her interaction

considering her age, yet I do not find that she could be said to have the mind/ mental ability of a 10 years old child, as is contended by the Appellant.

5           In the above backdrop and keeping in view that the mother is not an earning person being unemployed, her father is growing old and her mother is said to be undergoing treatment for cancer, I do not find that the impugned order passed by the learned District Judge-1, Parbhani dated 07.03.2018, could be branded as being perverse or erroneous or likely to cause gross injustice to the Appellant, who is the biological father of the child. Since certain visitation rights have been accorded to the Appellant, I do not find any further directions would be necessary.

6           This Appeal from Order, being devoid of merit, is, therefore, dismissed.

7           Nevertheless, in the event of any change in circumstances or in the event the Appellant is prepared to pay for the accommodation /rent and the expenditure of the child to the extent of his medication and schooling, the mother may consider residing at Aurangabad. The Appellant would be at liberty to move an application for seeking such reliefs.