

IN THE HIGH COURT OF BOMBAY AT GOA.
MISC. CIVIL APPLICATION NO. 633 OF 2019.
IN
SECOND APPEAL NO.75 OF 2018.

ARUN SHARMA,

... Applicant.

Versus

ROXANN SHARMA

... Respondent.

Applicant present in person.

Ms. C. Collasso, Advocate for the respondent.

Coram:- PRITHVIRAJ K. CHAVAN, J.
Reserved on: 8th July, 2019
Pronounced on: 9th July 2019.

ORDER

The applicant who is the father of the child namely Thalbir aged about 7 years is seeking overnight access from 16.7.2019 to 21.7.2019 as he desires to spend full 6 days with his son for the reasons as per scheduled herein below:-

*“(a) From 16th July (Tuesday) till 21.7.2019.
The 16th of July being Guru Poornima. There will a Puja in the Betalbatim house and his relatives and extended family, who reside outside Goa, will be*

present- it is clarified that the relatives are coming to Goa mainly for the purpose of interacting and bonding with Thalbir. Applicant would like his son Thalbir to be very much part of the cultural experience and enjoy quality time with his relatives.

From 18.07.2019 to 19.07.2019-Applicant and his relatives have planned a trip(along with Thalbir), to Dudhsagar Spa and Resort in Mollem. 19.07.2019 to 21.07.2019-Applicant and his relatives have planned a stay(along with Thalbir) at nearby Whistling woods(a spa in Dandeli Forests), whereby they have planned foll. Activities: boating, child friendly trekking, bird watching, an excursion to see the wildlife in Dandheli Forests, which is organized by the Forest Department of India.”

2. The applicant *inter alia* contends that for the overall physical, mental and emotional resilience he needs the company of his child.
3. The application is opposed by the respondent/mother mainly on the ground that the child would not be comfortable with the applicant. It is contended that the respondent is homeschooling the child. The timings are from 9.00 am to 1.00 pm. The child is also attending violin classes once in a week. Spending six days with the applicant would disturb his routine i.e. schooling, extra curricular activities etc and the child would

not be in a position to bear the hectic schedule proposed by the applicant.

4. I have heard the applicant in person as well as Ms. C. Collasso the learned Counsel for the respondent.

5. My attention is drawn to an order passed by this Court on 15.4.2019 in MCA No.388/2019. In the said order overnight custody of the child was given to the father (after usual visitation hours) during the night intervening between 16th and 17th April, 2019 as the applicant therein(respondent) had to go to Bombay.

6. Ms. C. Collasso, while strongly opposing the application has reiterated what has been stated in the reply. According to her, the applicant has already been granted visitation rights on every Tuesday, Thursday and Saturday.

7. Its transpires from the application that the relatives of the applicant would be visiting Goa only for the purpose of interacting and bonding

with the child. It appears that it is a legitimate expectation of the applicant to keep his child in touch with the cultural experience and enjoy quality time with his relatives. I find no wrong in it and there should be no reason to oppose this proposal for overall welfare and growth of the child in a family atmosphere.

8. The applicant has been granted visitation rights on every Tuesday, Thursday and Saturday. As such, it would be just and proper that instead of 6 days, 4 days overnight access would definitely serve the purpose which would not disturb the usual routine of the child as stated herein above by the respondent.

9. It is equally important to ensure that the child gets his father's love and affection which is possible only if he is allowed to be in the company of the applicant for a considerable time. This does not mean that the custody of the child is being handed over to the applicant.

10. Four days overnight access of the child would obviously be

inclusive of Thursday and Saturday.

11. For the reasons stated herein above, I proceed to pass the following:-

O R D E R

- i. Application is partly allowed.
- ii. Overnight custody of the child shall be handed over to the applicant on 18.7.2019.
- iii. Custody of the child shall be handed over to the respondent at 9.00a.m on 22.7.2019.
- iv. Applicant shall ensure strict compliance of the aforesaid directions.
- v. Application stands disposed of in terms of aforesaid order.

PRITHVIRAJ K. CHAVAN, J.