

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 84 OF 2019
IN
FAMILY COURT APPEAL NO. 173 OF 2014

Savina Aruna Norhona Gomes .. Applicant

Versus

Savio Herculeano Gomes .. Respondent

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- Ms. Nityoah S. Mehta a/w Ms. Urvi Patel, Mr. Ashish Anand i/by M.M. Patel & Co. for the Applicant / Original Appellant
 - Mr. Denzil D'Mello for the Respondent
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CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE : APRIL 10, 2019.

P.C.:

1. This application is taken out by the applicant - mother of Sera who is aged about 11 years at present. The applicant - mother of the child and the respondent - father of the child have had matrimonial dispute. During the mediation proceedings, the passport of the daughter was handed over to the Advocate for the applicant and under order of this Court dated 17.9.2018 passed in Family Court Appeal No. 173 of 2014, it remains presently.

2. This application is filed seeking to retrieve such passport since the applicant along with her daughter and her husband (she having remarried) wishes to visit U.S.A. between 20.4.2019 to 11.5.2019. They point out that the appellant and her husband are both permanently employed in India working at Mumbai. The wife is employed as a Senior Instructional Designer by a company called G-Cube, drawing sizable salary. The husband is engaged by Drishyam Films Pvt Ltd-VFX again with sizable remuneration. They both wish to take Sera to USA for vacation and family gathering. Learned counsel for the applicant stated that they undertake before the Court to return to India upon completion of the said period along with Sera.

3. Learned counsel for the respondent did not oppose this request. His only concern was that suitable conditions be imposed so that the daughter returns to India within time assured.

4. Considering the fact that the applicant and her husband are both permanently employed and the residents of India,

that the daughter is also pursuing her education in a school at Mumbai, we propose to permit the applicant to take Sera to U.S.A. within the dates mentioned, however, subject to certain conditions in view of the concern of the respondent father of the girl.

5. This application is disposed of with following directions:-

- i. It is open for the applicant to receive the passport of Sera from the learned counsel for the applicant;
- ii. The applicant and her husband shall file an undertaking before this Court latest by 15.4.2019 that they will return with the child latest by 12.5.2019 as assured to the Court.
- iii. Upon their return, within a week thereafter, the applicant shall deposit the passport of the child with the Registry of this Court .
- iv. The applicant and her husband together give unconditional bank guarantee of a sum of Rs. 5 Lakhs in favour of the Registry of this Court latest by 15.4.2019 to be encashed forthwith in case there is breach of the daughter returning within time permitted.

- v. Upon the applicant returning back to India with the daughter and surrendering the passport of the daughter, it would be open for the applicant to apply for discharge of bank guarantee with the consent letter of the respondent.
- vi. For any future requirement, it would be open for the applicant or the respondent to seek release of the passport to take the girl outside the country;

6. With the above directions, the application is disposed of.

[SARANG V. KOTWAL, J.]

[AKIL KURESHI, J]