

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12291 OF 2019

Poonam Nilesh Sawant	...	Petitioner
versus		
Nilesh Shriram Sawant	...	Respondent

Mr.Priyal Sarda for the Petitioner.

Ms.Anita Agarwal for the Respondent.

Poonam Nilesh Sawant-Petitioner present
in Court.

CORAM :- SMT.BHARATI DANGRE, J.

DATE :- MARCH 2, 2020

P.C. :-

1. The petitioner is aggrieved by an order passed by the Family Court, Pune on 5th November, 2019. The order impugned came to be passed on an application (Exhibit 4) ; “Application for interim maintenance under Section 24 of the Hindu Marriage Act”, which contain an interim prayer to the following effect and which is titled as prayer clause (d).

“d) The Father Angel school, Wadgaonsheri and Lexicon International School, Wagholi, Pune or any other school having same syllabus pattern may kindly be directed to give provisional admission to the children of the Petitioner to avoid their educational loss”.

2. Similarly, a pursis was filed by the petitioner to the effect seeking the Leaving Certificate from the New Horizon Scholars

School and Neo Kids to Lexicon International School, Wagholi, Pune on 4th November, 2019. An ad-interim order was a result of the said pursis and the learned Judge, Family Court, understood the argument of the parties to the effect that both the children aged 9 and 3 years respectively were taking education at the school at Airoli. The Court noted that the parents are concerned with the welfare and convenience of the children. On taking into consideration the fact that the academic session was in progress, the impugned order directed that the children be restored to their original school i.e. school at Airoli, to complete the academic year. The direction was also issued to the school at Airoli not to issue the transfer certificates of both the children until final determination of the application.

3. The daughter, who is pursuing her education in the school at Airoli in fourth standard, is undergoing her final examination and her academic session would come to an end by end of March 2020.

4. The mother do not intend to stay in Mumbai and propose to shift to her parental house at Pune. As a consequence, she desires that both her children be admitted in the school at Pune and for that purpose, the order passed by the Family Court on 5th November, 2019 is creating a high crux. The Court had directed

that the transfer certificate of both the children shall not be transferred by the school at Airoli, pending the final determination of the application.

5. In the aforesaid narrated circumstances, the only course that remains open for this Court is to relegate the parties to the Family Court to adjudicate the application on which, the interim order was passed on 5th November, 2019. The emergency being the admission for the next academic session would commence after 15th March, 2020 and most of the good schools would close their admission process in the month of April, 2020, it is expedient to decide the said application at the earliest. Since it also involves an interim maintenance claimed under Section 24 of the Hindu Marriage Act, 1955, in the light of the urgency culled out above, the learned Judge, Family Court No.5, Pune is requested to decide the application (Exhibit 4) as expeditiously as possible and in any case, before 15th April, 2020.

6. If the issue of interim maintenance cannot be decided finally, atleast the Family Court would give regard to the direction issued on 5th November, 2019 as regards the transfer of the school of the children and would appropriately pass orders putting the issue of schooling of the children to rest.

7. Needless to state that the respondent will co-operate in the hearing of the application and the learned counsel undertake that there will be no adjournment on his part, which would result in delaying the process of deciding the application by the Family Court.

8. With the aforesaid observations, by remitting the matter to the Family Court for determination of the issue as stated above, the writ petition stands disposed of.

9. At this stage, the learned counsel for the petitioner inform that the study material, including the school books are lying in the house of the respondent-husband and since the exam is going on, the children need the said material. On such a difficulty being expressed, the learned counsel for the respondent-husband agree that he would collate the necessary material required by children and would hand over the same to the wife in the school premises at Airoli on Wednesday i.e. 4th March, 2020 between 11.00 to 12.00 in the morning.

(SMT.BHARATI DANGRE, J.)