

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 CRIMINAL WRIT PETITION NO.1530 OF 2020

SAU. KOMAL W/O BALAJIRAO MUNDE
VERSUS
SHRI. BALAJI S/O SHRIRAM MUNDE AND OTHERS

...
Advocate for Petitioner : Yogesh Bolkar h/f Irale Eknath G.
Advocate for Respondent no.1 : Amol G Vasmatkar

...
CORAM : MANGESH S. PATIL, J.
DATE : 19.01.2021

PC. :-

Heard both the sides.

2] The petitioner who happens to be the wife of the respondent no.1 is impugning the order passed by the appellate Court i.e. the learned Additional Sessions Judge granting stay to the execution and operation of the order passed by a Magistrate in a proceeding taken out by her *inter alia* under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (D.V.Act for short) directing the respondents under Clauses 7 and 8 of order dated 31/10/2020 to hand over temporary custody of minor children Shravani aged 8 years and Adwait aged 5 years to her pursuant to the provisions of Section 21 of the D.V. Act.

3] I have had personal interaction with the children in my chamber and I have formed a firm opinion that the children were tutored to say that they were happily residing with their father and do not intend to go to the mother. No sooner they entered in the chamber even without allowing me to speak

anything they started telling me that they would want to stay with their father. It is highly unbecoming of a party to indulge in such manipulation when by passing specific order I had expressed my intention to have interaction with the children as their well-being is of paramount consideration.

4] Be that as it may, the impugned order grants a blanket stay to the execution and operation of the order passed by a Magistrate under Section 21 of the D.V.Act during pendency of the appeal.

5] Instead of indulging in any further discussion it would suffice to direct the appellate Court to decide the appeal as expeditiously as possible and in the mean time to work out some kind of arrangement regarding visitation rights. While doing so, it needs to be borne in mind that the children have been in the custody of the respondent no.1 father and the Magistrate had directed him to hand over their temporary custody to the petitioner.

6] The respondent no.1 shall now strictly adhere to the direction no.3 in the impugned order passed by the appellate Court and the appellate Court shall make every endeavour to decide the appeal as expeditiously as possible and in any event within a period of 2 months from today. The learned appellate Court shall in the mean time give a specific date, time and place to enable the petitioner to meet the children during pendency of the appeal.

7] The Writ Petition is disposed of in above terms.

[MANGESH S. PATIL, J.]