

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1981 OF 2021

Saleel Sudhir Panse

...Petitioner

Vs.

High Court of Judicature at Bombay through its
Registrar General and others

...Respondents

Mr. Rui Rodrigues a/w. Mr. Samarth Moray and Ms. Shivani Shinde Moray
for Petitioner.

Mr. Rahul Nerlekar for Respondent No.1.

Adv. Jai Vaidya for Respondent No.2.

CORAM : UJJAL BHUYAN &
PRITHVIRAJ K. CHAVAN, JJ.

DATE : 1st JULY, 2021

P.C.

Heard learned counsel for the parties.

2. On 29.06.2021, we had passed the following order :-

“On 21.06.2021, we dealt with a *praecipe* filed by learned counsel for the petitioner expressing urgency but on that day we were informed by the Court Associate that the case file could not be traced out in the Registry. Accordingly Registry was directed to trace out relevant papers (case file) and thereafter to list the writ petition today.

2. Today we find a cryptic note of the Registry to the effect that Writ Petition No.1981 of 2021 is under search.

3. We fail to understand as to how a writ petition of the year 2021 can be misplaced. Accordingly we direct Registrar-Judicial to look into the matter and trace out the file of the relevant writ petition which should be listed before the Court on 01.07.2021 with a note of the Registry.

4. Stand over to 01.07.2021.”

3. Today the case file is before us. However, note of the Registry is not on record. We interacted with the Registrar (Judicial), who has assured us that he would put up a note in terms of the order dated 29.06.2021.

4. This petition has been filed by the husband seeking the following reliefs :-

“a) This Hon’ble Court be pleased to hold, order and declare that depriving a child of access, including video conference access, to his/her non-custodial parent amounts to an unreasonable and arbitrary deprivation of the child’s right to equal protection of laws guaranteed under Article 14 of the Constitution;

b) This Hon’ble Court be pleased to hold, order and declare that the right of a child to have access to a non-custodial parent is part of the expanded concept of the right to life contained in Article 21 of the Constitution of India and further be pleased to hold, order and declare that the denial of such access is a breach of such rights;

c) This Hon’ble High Court be pleased to lay down appropriate guidelines in the nature of an approved Parenting Plan to be followed by the Ld. Family Courts during lockdowns occasioned by the ongoing global Pandemic;

d) Pending the hearing and final disposal of the present Petition, this Hon’ble Court may be pleased to grant the Petitioner access including video conferencing, telephonic and physical access to the Petitioner’s minor children on such terms and conditions as this Hon’ble Court deems fit and

proper.

e) Ad-interim/Interim relief in terms of prayer clause (d) be granted.

f) Costs of the Petition be provided.

g) Any other appropriate reliefs in the facts and circumstances of the present case be granted in favour of the Petitioner.”

5. In the course of the hearing when we *prima facie* expressed our view that the writ petition in its present form may not be maintainable, learned counsel for the petitioner submitted that petitioner has filed an application seeking access and custody of the child before the Family Court in Bandra at Mumbai which has been registered as Petition No.D-12 of 2021.

6. Petitioner would be at liberty to make a request before the Family Court to expedite hearing of the aforesaid petition. However, as indicated above, we are of the view that it is purely a private dispute between the husband and the wife and a petition under Article 226 of the Constitution of India would not be maintainable in the circumstances.

7. With the above observation, the writ petition is disposed of.

PRITHVIRAJ K. CHAVAN, J

UJJAL BHUYAN, J