

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

Misc. Civil Application (MCA) No. 516/2021
In
Family Court Appeal No.44/2018 and in Family Court Appeal
No.45/2017

Praveen Shripatrao Sheware,
Aged about 46 years, occ.-Service,
R/o.-199 Panday Lay Out, Khamla, Nagpur. ... Petitioner.

VERSUS

Alka d/o Namdeo Khedkar,
Aged about 44 years, Occ- Service,
District Mining, Chandrapur,
Collector of Chandrapur. ... Respondent.

Mr. P.S. Sheware, petitioner in person.
None for the respondent.

**CORAM : A.S.CHANDURKAR &
PUSHPA V. GANEDIWALA, JJ.**
Date : 17-12-2021.

JUDGMENT : (Per: Pushpa V. Ganediwala, J.)

Heard Mr. P.S. Sheware, petitioner in person. None
appeared for the respondent.

2. By way of this application filed under Order 47 Rule 1 of
the Code of Civil Procedure (C.P.C.), the petitioner has sought a review

of the order dated 09-03-2021 passed in Family Court Appeal No.44/2018 and Family Court Appeal No.45/2017.

3. In Family Court Appeal No.45/2017, the petitioner had challenged the order dated 24-05-2017 passed in M.C.A.No.11/2016 by the Family Court, Nagpur whereby the Family Court, Nagpur, rejected the petitioner's prayer for interim relief of visitation rights of his minor daughter Bhumika during vacations and directed the parties to resolve the issue of access to their minor daughter through the process of mediation.

4. Family Court Appeal No.44/2018 was directed against the order dated 24-10-2016 passed in Petition No.D-13/2016 before the Family Court, Nagpur, whereby the learned Judge of the Family Court dismissed the petition for want of territorial jurisdiction.

5. We did allow the Family Court Appeal No.44/2018 by restoring the Petition No.D-13/2016 to the file of Family Court, Nagpur to decide the same in accordance with law as expeditiously as possible preferably within a period of one year from the date of communication of that order. We further observed that since the issues involved in both these appeals were the same i.e. custody/access of the minor

daughter Bhumika and since the relief sought in M.C.A. No.11/2016 before the Family Court, Nagpur was for interim custody of minor daughter Bhumika during Diwali Vacation, which was rendered infructuous, we, while disposing of the Family Court Appeal No.45/2017 against that order granted liberty to the petitioner to move a fresh application, if so advised in the Petition No.D-13/2016 for interim custody of his daughter.

6. The petitioner now states that as per the liberty granted by this Court the petitioner moved fresh application below Exhibit-49 for the custody/access of his minor daughter in Petition No.D-13/2016. The learned Judge of the Family Court, Nagpur also granted him interim relief. However, the conduct of the respondent wife was as usual adamant and she deliberately avoided to obey the order of the Family Court and failed to present the minor daughter. The petitioner further states that the Judge who was knowing all the facts of the case of the petitioner was transferred and the new Judge of the Family Court adjourned the matter to 19-06-2021 and thereafter referred the matter for mediation. However, the respondent-wife did not appear before the mediator alongwith minor daughter. Thereafter, matter came to be adjourned from time to time. Hoping that the petitioner will not get justice before the Family Court, he approached this Court

in this review petition on the following grounds (as per synopsis in the petition) :-

- "1. Whether the respondent hampered the due procedure of law ?*
- 2. Whether the conduct of respondent clearly tantamounted to playing fraud upon the Court?*
- 3. Whether the respondent has abused the process of the Court?*
- 4. Whether the respondent had made a mockery of the judicial process that undermines the dignity of the Court and the Majesty of law?"*

7. In the body of petition, the petitioner has raised the following grounds :-

- "1. Whether the points raised by party in person are properly addressed to by this Hon'ble Court?*
- 2. Whether the minor daughter can be left unsupervised for more than 10 to 12 hours at the mercy of neighbours in a new city, where no immediate help available in case of emergency under such scenario of society where minor girl child is being abused?*
- 3. Whether the safety and security of minor child were taken into consideration while deciding the issue of custody?*
- 4. Whether the respondent still entitled for the custody of daughter who has no regards for the rule of law?*
- 5. Whether respondent can be beneficiary of her own wrong?*

6. *Whether respondent permitted to keep the Appellant father and his daughter engaged in litigation ?"*

8. A perusal of the contents in petition itself, at the outset, we are of the firm opinion that the petitioner could not make out a case for review of our order dated 09-03-2021 on the principles as contemplated under Order 47 Rule 1 of the C.P.C. Firstly, the petitioner could not point out any discovery of new matter or evidence which after exercise of due diligence was not within his knowledge or could not be produced by him at the time of the aforesaid order was made by this Court. So also the petitioner could not point out any mistake or error apparent on the face of the aforesaid order.

9. It is well settled that the jurisdiction of review Court is limited and under **Order 47, Rule 1** CPC a judgment or order may be open to review inter alia if there is a mistake or an error apparent on the face of the record. The petitioner could not point out any different material for consideration which according to him he could not produce the same at the time of passing of the aforesaid order.

10. Apart from the above, the petitioner could not convince this Court any other sufficient reasons. Whatsoever grounds raised by

the petitioner are the grounds to be raised in the appellate jurisdiction.

11. In this view of the matter, the petitioner has failed to make out a case for review of our earlier order dated 09-03-2021 passed in Family Court Appeal No.44/2018 and Family Court Appeal No.45 of 2017. Hence, the Misc. Civil Application stands rejected with costs.

(Pushpa V. Ganediwala, J.)

(A.S. Chandurkar, J.)