

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 FAMILY COURT APPEAL NO.65 OF 2022

APARNA DEEPAK MUNSHI
VERSUS
DEEPAK DILIP MUNSHI

...
Advocate for Appellant : Mr. Jadhav Sunil Bappasaheb
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 14 SEPTEMBER 2022

PC :

The appellant is aggrieved by the order passed by the Family Court allowing the application of the respondent – husband and holding that it had no jurisdiction to entertain her petition filed under section 25 of the Guardians and Wards Act for custody of the minor sons.

2. The learned advocate for the appellant would vehemently submit that she was finding it difficult to know whereabouts of the children. The respondent has been serving in merchant navy. He was not even communicating with her and averment was made in the petition that the children were taking education at Aurangabad. Ignoring all these peculiar facts and circumstances, the Family Court has refused to entertain the petition on the ground of jurisdiction.

3. We have carefully considered the submissions and perused the impugned order. The Family Court was alive to the legal position and the requirements of making an averment in the petition disclosing ordinary residence of minors of whom the custody as being sought, as is required by section 9 of the Guardians and Wards Act. The Family Court has also pointed out that the petition filed by the appellant was absolutely devoid of any averment regarding ordinary residence of the minors and on the contrary, merely disclosed that the appellant was residing at Aurangabad, to demonstrate that it had territorial jurisdiction to decide the dispute. Over and above, the Family Court had also noticed that the respondent had produced bona fide certificates of both the children disclosing that they were taking education in some school at Pune.

4. Practical difficulties apart, the order under challenge cannot be faulted with when it was clearly noticed the legal provisions and absence of any specific averments in the petition, to justify its order refusing to entertain the petition on the ground of want of territorial jurisdiction. There is no illegality.

5. The Appeal is dismissed.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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