

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8782 OF 2019

Sanjery Javed Khan

...Petitioner

V/s.

Ayesha Bi Sanjery Khan @

Catherine Anna Eustaquio Braganza

...Respondent

SNEHA
NITIN
CHAVAN

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SNEHA NITIN
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Date: 2022.08.17
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Mr. Kashyap Bhalerao, for the Petitioner.

None for the Respondent.

CORAM : C.V. BHADANG, J.

DATE : 12 AUGUST 2022

P.C.

. The challenge in this petition is to the order dated 30.03.2019 below application Exh. 8 passed by the learned Family Court at Mumbai in Petition No. A-448 of 2018. By the impugned order, application Exh.8 filed by the Petitioner seeking access/visitation rights to his daughter who was then aged about 2 years has been rejected.

2. The record discloses that inspite of the Respondent-wife being served, she has chosen not to appear. On the previous date, final opportunity was granted to the Respondent to put in appearance. However, today again, there is no appearance on behalf of the Respondent.

3. I have heard the learned counsel for the Petitioner. A perusal of the impugned order dated 30.03.2019 shows that the Family Court had indicated that a similar application seeking visitation rights shall not be entertained till the child attains the age of 5 years.

4. The learned counsel for the Petitioner on instructions from the father of the Petitioner who is present before the court, submits that the date of birth of child is 15.11.2016 and she has already attained age of 5 years in November 2021.

5. In that view of the matter, the petition is disposed of by granting liberty to the Petitioner to apply afresh seeking visitation rights of the minor daughter. If such an application is filed, the Family Court shall decide the same on its own merits and in accordance with law and in view of the subsequent circumstances, if any, including the aspect of the acquittal of the Petitioner from the prosecution under the Protection of Children from Sexual Offences Act, 2012.

6. The rival contentions of parties in this regard are left open.

7. The Petition is disposed of in the aforesaid terms.

C.V. BHADANG, J.