

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

CIVIL APPLICATION (CAF) NO.2888/2022

IN
FIRST APPEAL ST. NO.21569/2022

Sau. Reshma Sumedh Bawaskar

..Versus...

Sumedh S/o Sudhakar Bawaskar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri Raju Kadu, Advocate for applicant

CORAM : AVINASH G. GHAROTE, J.

DATE : 22/12/2022

1. Shri Kadu, learned counsel for the applicant, on instructions, states that there is no objection if the father is permitted to meet the son and have an interaction with him. The plea however is that the physical custody of the son ought not to have been transferred in pursuance to the judgment dated 15/06/2019 in Guardian & Wards Case No.9/2019 (Sumedh Sudhakar Bawaskar Vs. Sau. Reshma Sumedh Bawaskar) passed by the Principal District Judge, Buldana, which is put to execution.

2. The present civil application seeks condonation of delay of 481 days caused in filing the appeal against the

judgment dated 15/06/2019 on the ground of Covid-19 and the judgment of the Hon'ble Apex Court in Suo Motu Writ Petition No.3/2020 dated 23/03/2020 and 27/04/2021. It is further stated, that under a mistaken legal advice the impugned judgment was challenged by way of Writ Petition No.7473/2022, where though by an order dated 08/12/2022 an interim relief was granted, however, the petition has been withdrawn as it was pointed out that the remedy of appeal was available.

3. Considering the above position, in view of the quantum of delay and the reasons given, the delay in filing the first appeal is condoned. The civil application is allowed. Office to register the appeal.

FIRST APPEAL ST. NO.21569/2022

Issue notice to the respondent, returnable on 16/01/2023.

CIVIL APPLICATION (CAF) NO.2889/2022

1. Issue notice to the respondent, returnable on 16/01/2023.

2. The civil application seeks stay to the effect and operation of the judgment dated 15/06/2019 passed by the

learned Principal District Judge, Buldana in Guardian & Wards Case No.9/2019, which directs handing over the custody of the ward by the appellant-mother to the father, which judgment is *ex parte* and has been put to execution in Darkhast No.272/2019 (page 46). It is contented that though there is no order issuing warrant for production of the minor child, the police authorities have visited the parental house of the appellant in search of the child to take his custody and deliver it to the father in the aforesaid execution proceedings.

3. Considering the fact that it is an admitted position that the child is in the custody of the mother since beginning any disruption of the custody would naturally affect the well being of the minor and the fact that in Writ Petition No.7473/2022 an interim relief was granted by the order dated 08/12/2022, by an ad interim *ex parte* order, the effect and operation of the judgment dated 15/06/2019 passed by the learned Principal District Judge, Buldana in Guardian & Wards Case No. 9/2019 is hereby stayed till the returnable date.

(AVINASH G. GHAROTE, J.)