



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2807 OF 2023
IN
CRIMINAL WRIT PETITION NO. 2966 OF 2022

Ivan Couto

.....Applicant

Vs.

Augusta Karen D'Souza (nee Couto) & Ors.

.....Respondents

Mr. Filji Frederick, a/w Mr. Archit Chaturvedi, Mr. Pranav Pradhan i/by FF
And Associates for the Applicant.

Ms. Kokila Kalra for the Respondent No.1.

Ms. M.H. Mhatre APP, for the Respondent-State.

CORAM : A. S. GADKARI AND
MILIND N. JADHAV, JJ.

DATE : 26th SEPTEMBER, 2023.

PC.:-

1) Heard Mr. Frederick, learned counsel for Applicant, Ms. Kalra,
learned Advocate for Respondent No.1 and Ms. Mhatre, learned APP for the
Respondent-State.

2) The principal Petition was filed by Respondent No.1 for
producing the corpus Smt. Bella Sequira Couto aged 95 years (hereinafter
referred to as "*mother*").

3) By Order dated 6th October, 2022, this Court noted that, the
mother was kept in St. Joseph's Home, Zadpoli, Vikramgad Taluka, District
Palghar by Respondent No.3 and once found, further directions were given
and Petition was disposed off.

4) The present Interim Application is filed by Original Respondent No.3 seeking substantive reliefs of disclosure, visitation rights and unrestricted access which when read would clearly indicate to the Court that Applicant seeks to enhance the scope of the earlier Petition filed before this Court.

4.1) This cannot be permitted in law as enunciated in the decision of the Hon'ble Supreme Court in the case of *State of Uttar Pradesh V/s. Shri. Brahm Datt Sharma & Anr. reported in AIR 1987 SC 943.*

4.2) This kind of action is impermissible in law. Substantive reliefs claimed by Applicant (Original Respondent No.3) in Interim Application cannot be allowed and such practice needs to be deprecated.

5) It is clarified that while passing the Order dated 6th October, 2022, Applicant/Respondent No.3 was fully heard and directions sought by him, being son of the corpus, were considered as she was 95 years old.

6) It is seen that, reliefs prayed for in the present Application are solely made with the purpose of seeking details of disposition of the immovable properties belonging to the mother and therefore such an Application is not maintainable.

7) Application is accordingly dismissed.

(MILIND N. JADHAV, J.)

(A.S. GADKARI, J.)