

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

**INTERIM APPLICATION NO.15819 OF 2023
IN
WRIT PETITION NO.4405 OF 2023**

Virendra Arvindkumar Desai	..Applicant/Petitioner
Versus	
Rachana Virendra Desai	..Respondent

Mr. Akash Vijay, for the Applicant/Petitioner.
Mr. Swanand Ganoo a/w Neeta Solanki i/by Unison Legal, for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 22nd DECEMBER, 2023

PC.

1. The Interim Application has been filed in Writ Petition which challenge the order dated 13th February, 2023 passed by the Family Court by which the Marriage Counselor was directed to interview the child and submit a report. This Court is informed that the order was implemented and subsequently the child was interviewed. It appears that thereafter by an order on 10th May, 2023, the Appellate Court has decided the issue of access of the minor child and has partly allowed the same providing physical access on every Sunday between 5:00 p.m. to 8:00 p.m. as well as virtual access on every Tuesday and Thursday. By the said order of 10th May, 2023, the Respondent was held entitled to Summer Vacation access for five days and Diwali and Christmas Vacation access on last three days only if the holidays of the child are for a period of ten or more days. The Interim Application seeks to challenge the subsequent order passed on

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10th May, 2023, when the original Writ Petition challenges the order of the Family Court dated 13th February, 2023. Upon a query posed by the Court, it is submitted that the Petition has become infructuous as interview of the child is over. Learned counsel appearing for the Petitioner submits that in the Petition other prayers regarding the access were also sought.

2. Even if the prayers are sought, the Petition which is filed under Article 227 of the Constitution of India, challenged the judicial order dated 13th February, 2023. As the order of 10th May, 2023 is subsequent order of the Family Court, the Petitioner is required to challenge the same by way of a separate Writ Petition and not by way of an Interim Application. If this is accepted, each and every order of the Family Court arising out of the same subject matter would be challenged by way of Interim Application. That apart, upon considering the order of the Family Court, the same cannot be said to be unreasonable in as much as in Summer Vacation access of five days has been granted as well as access of three days in Diwali and Christmas Vacation. It is necessary for the Petitioner to avail of the access so that the bond is established between the child and the Petitioner and thereafter seek modification of the order.

3. In that view of the matter, Interim Application is dismissed.

[SHARMILA U. DESHMUKH, J.]