



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 WRIT PETITION NO. 4163 OF 2023
WITH
CIVIL APPLICATION NO. 11910 OF 2023
IN WP/4163/2023

ASHWINI RAJKIRAN MALVE
VERSUS
RAJKIRAN DATTATREY MALVE

...
Advocate for the Petitioner : Mrs. Chittal Nandini
Advocate for Respondents : Mr. Shaikh Mazhar A. Jahagirdar
...

CORAM : ARUN R. PEDNEKER, J.
Dated : September 04, 2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. This matter relates to custody of three children who are at present aged 13, 10 and 8 years, respectively, the elder being two sons and the younger being the daughter.
3. By the present writ petition, the petitioner/wife is challenging the impugned order dated 6.12.2022 below Exh. 23 in M.C.A. No. 19/2022 passed by the learned District Judge, Shrirampur, whereby the District Judge allowed the interim application partly and permitted the applicant/wife to meet the children once in a month for the period of one or two hours in the presence of respondent/husband at Shrirampur as per convenience of both the parties. M.C.A. No. 19/2022 is filed under section 25 of the Guardian and Wards Act by the petitioner/wife, claiming custody of the children, which is now with the respondent/husband.
4. The leaned counsel for the petitioner submits that interim application at Exh. 23 is filed in a proceeding under section 25 of the Guardian and

Wards Act by the petitioner/wife for visiting rights of children for two times in each month till the decision of the matter. The learned counsel submits that the learned District Judge permitted the wife to meet the children once in a month, however, the children are enmical to the mother and accordingly, present writ petition is filed. The learned counsel submits that children need psychological evaluation and counselling as it was noticed that when the children were called for meeting, they did not want to meet the mother and for that purpose filed civil application No. 11910/2023 in the present writ petition.

5. The matter is pending from 2023. Children were sent to counselling center 'Sukoon' in the High Court premises and the reports are also received by this Court from the Counsellor. From the report, it appears that the settlement did not work out, attempted by the counsellor of Sukoon. The counsellor also asked for additional session and the Court has granted the same accordingly. Thereafter, the counsellor reported that the matter could not be worked out. Although several attempts were made by this Court, it appears that the children at this moment are not inclined to meet the mother, possibly on account of surrounding situation.

6. In view of the above situation, I deem it appropriate to direct the District Judge, Shrirampur to decide the application under section 25 of the Guardians and Wards Act filed for custody of the children within a period of six months from the date of production of this order. While dealing with the matter, the concerned court shall also interact with the children and if necessary provide assistance from the counsellors or take such steps to ensure the well being of the children and to ensure that children should not develop enmical attitude towards mother, especially the youngest girl child

who is of 8 years of age.

7. Visiting rights granted by the District Judge, Shrirampur stands modified in the interregnum and the petitioner/wife is permitted to meet the children twice in a month in the presence of respondent/husband for the period of two hours at Shrirampur Court premises. Court Superintendent shall be appointed to ensure that the petitioner/wife will not be interrupted during visitation, meeting with the children. The husband shall be kept at some distance from the children during the meeting of children and mother.

8. With the above direction, the writ petition is disposed of. In view of disposal of writ petition, nothing survives in the application. The same is also disposed of.

(ARUN R. PEDNEKER, J.)

ssc/