



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 APPEAL FROM ORDER NO. 47 OF 2024

Sachin Balkrishna Narnaware

VERSUS

Sow. Namrata Rajkar Waghmare

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Advocate for appellant : Mr. R.B. Narvade Patil

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WITH

CIVIL APPLICATION NO. 13284 OF 2024 IN AO/47/2024

CORAM : S. G. CHAPALGAONKAR, J.

Dated : December 10, 2024

PER COURT :-

1. Heard Mr. Narvade Patil, learned advocate appearing for the appellant.

2. Appellant has instituted a proceeding for custody of a minor son. He filed an application below exhibit 122 seeking directions against respondent/wife to bring minor son to Pune, where he was intending to celebrate birthday of daughter. Respondent resisted application stating that examination of minor is scheduled at relevant period. Lateron, appellant filed purshis that respondent/wife can bring the minor son to Pune for attending celebration and then she can leave on same day alongwith son by 10 p.m. Family Court found such approach on the part of appellant-husband as

insensitive and, therefore, rejected application imposing costs of Rs.5,000/-.

3. Mr. Narwade would submit that, even subsequent application filed at exhibit-126 seeking access to the minor son during Diwali vacation has been kept in abeyance merely on the ground that costs amount is not deposited by appellant/husband in pursuance to the order dated 20.9.2024. According to Mr. Narwade, approach of the learned Family Court is perverse. Costs is imposed without there being prayer on behalf of the respondent wife.

4. Having considered the submissions advanced, it can be observed that interim application was moved by appellant seeking directions against divorced wife, who is residing at Aurangabad to bring minor son Krish @ Aryan to Pune for celebrating birthday of his daughter. The application was opposed stating that Krish @ Aryan is taking education in 7th standard and his examination for first semester is scheduled from 23.9.2024 to 4.10.2024 and it would not be possible for him to leave station for attending birthday programme. It transpires from the record that appellant thereafter filed purshis stating that respondent can bring minor son from

Aurangabad to Pune and return back by at 10 p.m. once celebration of birthday is over.

5. There is no doubt that such an approach of the appellant was insensitive towards minor son as well as respondent. They are not expected to travel at night hours only for pleasure of appellant. Family Court observing insensitivity of applicant rejected the application with costs of Rs.5,000/-. Imposing costs is always discretion of Court and in peculiar facts of this case, Family Court found it appropriate to impose costs of Rs.5,000/-. Discretion exercised by the Family Court need not be disturbed in appellate jurisdiction of this Court. Hence, there is no merit in this Appeal From Order, and the same stands **dismissed**. Pending civil application also stands **disposed off**.

(S. G. CHAPALGAONKAR, J.)

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