

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

**INTERIM APPLICATION NO. 3460 OF 2023
IN
FIRST APPEAL NO. 440 OF 2015**

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Sachin Bahusahab Zarekar

... Applicant/Appellant

Vs.

Eknath Rambhau Gavane And Ors.

... Respondents

Adv. Nilesh Wable, for the Appellant/Applicant.

Adv. Neville D. Deboo, for the Respondent Nos. 1 And 2

CORAM : KISHORE C. SANT, J.

DATE : 6th May, 2024

P.C.:-

1. Heard the parties. This Application is filed seeking direction to Respondent Nos. 1 and 2 to give access of Son Viraj to the Applicant during summer vacation as per the Order dated 20th January, 2016, and further to give phone number and allow the son Viraj to talk with the Applicant. It is stated that Respondents do not allow to speak on phone.

2. It is stated that though there is Order dated 20th January, 2016, the Respondents are not sending the child to the Applicant under the pretext that the child does not want to go to his father. About the mobile conversation it is informed that whenever the applicant tries to call his son it is always told that he is not in the house.

3. The learned Advocate for the Respondents however vehemently denies the contents of the Application stating that though the Respondents are ready to send the child it is the child himself who does not want to go to the father as he does not like company of the father.

4. In view all these allegations and denial this Court interacted with the child. From the conversation it appears that the child has developed a feeling of grudge against his father. He kept on saying that his father does not behave well with him and for that reasons he is not going to his father. It also appear from conversation that he his tutored by someone. This Court therefore interacted with the Respondent Nos. 1 and 2 who principally agreed that the child needs to be seat to his father as per the earlier order. It is also further informed that till Covid-19 lockdown the father used to visit the child regularly and the child also used to stay with the father in the vacations however because of the Covid-19 lockdown for 2 years it was not possible to see the child and thereafter the child is not willing to go to the father.

5. This Court finds that the child needs interaction with the father who is natural guardian. The child is of 13 years age as of now and is of quite understandable age. He is aware that the Court orders are required to be obeyed. However still because of the grudge against the father for some reasons he is not ready to go with the father. At this impressionable age it is quite natural to listen to the person with whom the child is residing. It is

therefore very much necessary to see that the child gets company of father as well, if the child does not have interaction with his father at this age the Child will be at loss to have the love and affection from his father which may affect his future emotional life.

6. During the interaction it also transpired that though the child is residing at Surat with his grand parents that is Respondent Nos. 1 and 2 his Maternal Uncle stayed only 20 k.m. away from the place of his father that is Shrigonda District Ahmednagar. Thus, Maternal Uncle also can keep a watch and child can be assured that his Maternal Uncle is there to look after in case he requires.

7. This Court is therefore feels that it is necessary to direct Respondent Nos. 1 and 2, considering all above, it is necessary to direct the Respondents Nos. 1 and 2 to hand over temporary custody to the Applicant for 60% of the period of summer vacation and to allow the father to talk to him child on Mobile, telephone, etc. It is only stated that whenever the father caused the child is not in the forms in such cases it is for the Respondents to call back this Applicant and to see that the child gets a chance to talk to father. Hence the following order.

ORDER

i) The Application is allowed in terms of prayer clause (a) and (b).

ii) It is clarified that it is for the Respondent

Nos. 1 and 2 to hand over the custody to the Applicant at the place where the Applicant is residing that it is Mandangaon Farata, Taluka-Shirur, District-Pune, after first week of start of every summer vacation.

iii) For the present he should be dropped at the place of the Applicant on or before 12th May, 2024.

iv) The Order be followed scrupulously.

(KISHORE C. SANT, J.)