

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.703 OF 2024

Vaishali Sudhir Karche .. Petitioner
Versus
Sudhir Yashwant Karche .. Respondent

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• Mr. Ravindra P. Kadam, Advocate for Petitioner.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 05, 2024

P.C.:

1. Mentioned. Not on Board. Taken on Board.
2. Heard Mr. Kadam, learned Advocate for Petitioner.
3. Perused the praecipe dated 05.04.2024 and the Writ Petition.
4. The impugned order dated 25.07.2023 passed below Exhibit-10 in Civil Miscellaneous Application No.46 of 2022 is the subject matter of challenge in the present Writ Petition.
5. The order is passed in Application filed by the Petitioner (wife / mother) seeking directions to the learned Trial Court to transfer the proceedings pertaining to custody of the minor before the Court within whose jurisdiction the minor is ordinarily residing as contemplated by the provisions of Section 9 of the Hindu Guardians and Wards Act, 1890 (for short '**the said Act**').

6. Though the learned Trial Court while passing the order acknowledges this fact and position in law, despite that the Application stands rejected. Mr. Kadam, learned Advocate would point out that the child is ordinarily residing with the Petitioner – mother in Satara whereas the Respondent resides in Malshiras, Solapur where the proceedings are filed.

7. An arguable case has been made out by Mr. Kadam for immediate issuance of notice to Respondent and stay of the order dated 25.07.2023 on the basis of the statutory provisions enumerated in the Section 9 of the said Act.

8. Hence, issue notice to the Respondent. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve the Respondent a copy of this order and copy of the Writ Petition and inform him about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondent is directed to file Affidavit-in-Reply to the Writ Petition on or before the next date.

9. In the meanwhile, the impugned order dated 25.07.2023 stands stayed until the present Writ Petition is decided.

10. Stand over to 19th April, 2024.