

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 196 OF 2024  
WITH  
MISC. CIVIL APPLICATION NO. 197 OF 2024

Shazia Fahed Shaikh Nee Shazia Rashid Khan  
W/o. Fahed Abdul Hameed Shaikh

.. Applicant

**Versus**

Fahed Abdul Hameed Shaikh husband of  
Shazia Fahed Shaikh

.. Respondent

- .....
- Mr. Sanjeev Kadam a/w. Ms. Manpreet Kaur, Mr. Suhail Shariff, Sherin Baby and Ms. Afreen Shaikh and Samar Pal, Advocates i/by Falcon Legal for the Applicant.
  - Mr. Rahul Singh a/w. Mr. Ranjan Mishra, Advocates i/by Rajesh Singh & Associates for Respondent.
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : SEPTEMBER 26, 2024.**

**P.C.:**

**1.** I have heard Mr. Kadam and Ms. Kaur, learned Advocates for Applicant and Mr. Singh, learned Advocate for Respondent.

**2.** There are four proceedings in the present case which have been informed to me across the bar. Misc. Civil Application (for short “MCA”) No.196 of 2024 is filed for seeking transfer of Custody Petition filed by Respondent – husband in the Family Court at Nashik to the Family Court at Bandra, Mumbai. Similarly, MCA No.197 of 2024 is filed for seeking transfer of Marriage Petition under Section 291 of the Muslim Marriage Act from Nashik to Bandra, Mumbai.

**3.** In the Family Court at Bandra, an Application filed by the Applicant – wife under Section 125 of the Code of Criminal Procedure, 1973 is pending. That apart, Respondent – husband has filed Contempt Petition in the Court at Nashik wherein an *exparte* order has also been passed in the interregnum in view of alleged breach of interlocutory order passed in the Custody Petition. I am informed by the learned Advocates for parties that aforesaid four proceedings are stayed in the meanwhile.

**4.** After hearing Mr. Kadam and Mr. Singh for some time and on perusing the pleadings, Mr. Singh at the outset would concede to the transfer of Custody Petition in view of the difficulty that would be encountered by the Applicant. However, he would inform the Court that he has no instructions whatsoever with respect to the Contempt Petition.

**5.** I need to remind Respondent that the Contempt Petition is filed in respect of breach of an interlocutory order passed in the Custody Petition itself and if the Custody Petition is transferred to the Family Court at Bandra, Mumbai, then Contempt Petition will also have to be transferred alongwith the Custody Petition.

**6.** However, considering the fact that both parties are highly educated and Doctors by profession and there are two children who are 7 year and 4 year old and presently residing with the Applicant –

wife, I have persuaded Mr. Kadam and Mr. Singh to speak to the parties once again and see if there is any hope and possibility for reconciliation without prejudice to their rights and contentions. Though, Mr. Singh would inform the Court that considering the minor age of the children, undoubtedly the mother is in a better position to take care of them.

**7.** However, it is needless to state that Respondent – father can have always appropriate access and visitation rights to the children. Hence, without prejudice to the rights and contentions of both parties, learned Advocates may take appropriate instructions and apprise the Court on the next date, pursuant to which I will hear further submissions in the present MCA again and pass appropriate orders on the next adjourned date.

**8.** Stand over to **4<sup>th</sup> October 2024.**

**[ MILIND N. JADHAV, J. ]**

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