

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

WRIT PETITION NO. 6747 OF 2024

Hazel Dsouza

.. Petitioner

Versus

Joel B. Dsouza

.. Respondent

Ms. Chandni Sachade for the Petitioner.

Mr. Sachin Daga a/w. Dhreyashi Panda, Dharani Divekar Mr. Mukul Bhagtani i/b. Tejal Patil for the Respondent.

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BAPPASAHEB
KAKDE

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CORAM: FIRDOSH P. POONIWALLA, J.

DATE: 6 DECEMBER, 2024

P. C.

1. This Writ Petition has been filed seeking quashing of an Order dated 6th March 2024 passed by the Family Court, Mumbai, at Bandra.

2. By the said Order, the Application filed by the Petitioner seeking relief that she should be permitted to move with her children to Calgary, Canada for better opportunities, seeking directions to the Respondents to handover the passports of the minor children and to co-operate for visa process, was rejected by the Family Court.

3. The Family Court has rejected the said Application for various reasons mentioned in paragraph 5 of the said Order dated 6th March 2024.

4. The first reason given is that the Petitioner was intending to move Canada as a student and not for employment. The second reason given is that she has not explained as to where the Petitioner would be staying during her study programme and whether arrangements have made for stay of her children and her mother (who is supposed to accompany her). Further, the Family Court has also held that the Petitioner has not explained as to how she will arrange money for stay, food, education and other basic necessities of the children in Canada.

5. In these circumstances, the Family Court held that it did not see the welfare and well-being of the children being taken care of by the mother while intending to take the children to Canada. The Application was dismissed for all these reasons.

6. The learned Counsel appearing on behalf of the Petitioner has referred to certain documents annexed to the Petition and to an Additional Affidavit dated 22nd July 2024 filed in the Petition. It is his submission that the said additional documents and the contents of the said Additional Affidavit clearly explain as to how the mother would take care of the children and their education in Canada.

7. In these circumstances, in my view, it would be appropriate to remand the matter back to the Family Court for re-consideration of the

Application of the Petitioner after considering additional material which the Petitioner seeks to produce.

8. Accordingly, the Order dated 6th March 2021⁴ passed by the Family Court is set aside.

9. The Family Court is directed to re-hear the Application after giving opportunity to the Petitioner as well as the Respondents to place additional material on record. This additional material will be placed on record by the parties within a period of one week from today.

10. The Family Court is requested to dispose of the Application by passing a reasoned order within a period of three weeks from today.

11. Writ Petition disposed of. No order as to costs.

[FIRDOSH P. POONIWALLA, J.]