

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

WRIT PETITION NO.16779 OF 2024

Mallika B. Singh .. Petitioner.
v/s.
Sheetal S. Singh & Another .. Respondents.

Mr. Bharat Manghani with Ms. Drushti Gala and Ms. Pallavi Kothari, for
the Petitioner.

Ms. Priyanka B. Chavan, AGP for the Respondent-State.

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CORAM: FIRDOSH P. POONIWALLA,J.
DATE : 14th NOVEMBER, 2024.

PC:-

This Writ Petition challenges an Order dated 11th November, 2024 passed by the Family Court at Bandra, Mumbai, under Exhibit 7, in Interim Application No. 91 of 2024, whereby Interim Custody of the minor daughter – Advika Sanjay Singh, aged 7 years, has been given to the Respondent No.1-Mother.

2 The facts of the case are as under:-

- (a) The husband of the Respondent and the son of the Petitioner, Sanjay Shekhar Singh, passed away on 25th March, 2024.
- (b) On 24th April, 2024, FIR was filed against Respondent No.1 for abetement of suicide of Sanjay S. Singh.
- (c) On 26th June, 2024, Respondent No.1 was arrested.
- (d) By an Order dated 3rd July, 2024, on the application of the grand-

mother (the Petitioner), the Family Court, Bandra gave custody of the minor daughter Ansheeka, aged 13 years, and Advika, aged 7 years, to the grand-mother

- (e) After being released on bail, Respondent No.1- mother moved an Application before the Family Court, Bandra for modification of the said Order dated 3rd July, 2024. By an Order dated 5th September, 2024, Respondent No.1-mother was given video audio call access of the minor daughters on every Saturday and Wednesday between 7 pm to 8 pm, for atleast 20 minutes, till the next date of hearing.
- (f) Thereafter, the Order dated 11th November, 2024, which is impugned in the present Petition, has been passed. However, the Court has been informed that a copy of the said Order is not yet available.
- (g) The Court was further informed that, by the said Order, Interim Custody of the minor daughter, Advika S. Shigh, who is aged 7 years, has been given to Respondent No.1-mother, and although a copy of the said Order is not yet available, the matter has been placed for compliance on 16th November, 2024.
- (h) In these circumstances, the Petitioner, who is the grand-mother, has moved this Petition seeking urgent ad-interim reliefs.

3 The learned Counsel for the Petitioner submitted that the Interim Custody of the minor daughters ought not to be given to the mother on account of the fact that she is facing charge of abetment of suicide of the father, that the daughters are unwilling to stay with the mother and also because passing of such an Order will lead to the separation of two siblings.

4 The Respondent has not yet been served. The Petitioner has moved urgently as the matter is kept for compliance on 16th November, 2024. In my view, there is merit in the submission made by the learned Counsel for the Petitioner. It is a fact that Respondent No.1-mother is facing a criminal charge of abetment of suicide of the father. Further, the Order dated 5th September, 2024 passed by the Family Court, Bandra records that the elder daughter has blocked access of Respondent No.1-mother to her phone. This demonstrates that she does not want to speak to the mother. This clearly shows the frame of mind in which the children are as far as the mother is concerned. Further, granting of interim custody of one daughter to Respondent No.1-mother will lead to separation of the two siblings, which is not advisable as it may affect the siblings mentally.

5 Considering all these facts, there has to be an ad-interim order in favour of the Petitioner. Hence, the following order is pass:

- (i) Issue notice to Respondent No.1, returnable on 29th November, 2024.
- (ii) The learned AGP waives notice on behalf of Respondent No.2.
- (iii) Till the next date of hearing, the Order dated 11th November, 2024 passed by the Family Court, Bandra, Mumbai in Interim Application No.91 of 2024, to the extent that it gives with the Interim Custody of the minor daughter, Advika Singh, to Respondent No.1-mother, is stayed.

(FIRDOSH P. POONIWALLA,J.)