

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO. 62 OF 2024

Sonali Trushant Walde

.. Applicant

Versus

Dhananjay Pundlik Chaudhari

.. Respondent

-
- Mr. Abhijeet Sulabha Jayant Kandarkar, Advocate for Applicant.
 - Ms. Daksha Punghera, Advocate for Respondent.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 27, 2024.

P.C.:

1. Heard Mr. Kandarkar, learned Advocate for Applicant and Ms. Punghera, learned Advocate for Respondent.

2. The facts in the present case are peculiar and therefore deserve intervention of the Court. Applicant is matrimonial aunt (मावशी) of the girl child who is in her custody. The natural guardian i.e. biological father of the girl child has filed Application under Section 8 of the Guardian and Wards Act, 1890 (for short “**the said Act**”) in the Civil Court at Chandrapur. Custody of the girl child with the Applicant – matrimonial aunt has come due to exigency. The mother and grandparents of the girl child alongwith girl child met with an accident in the month of April 2023. As a result of which only the girl child survived the said accident. After the said accident, the girl

child was taken away by the Applicant – matrimonial aunt to provide care and support to her.

3. It is pleaded before me by the learned Advocate for Respondent who is the father of the girl child that Custody of the girl child with her matrimonial aunt is illegal since her biological father is ready and willing to provide for her entire support and care.

4. In that view of the matter, father has filed Custody Application. Advocate for Applicant – matrimonial aunt has argued before me today. It is seen that she has filed Application seeking transfer of proceedings filed in the Court at Chandrapur. One of the submissions made by the learned Advocate for Applicant is that Applicant has also filed an identical Custody Application under Sections 7 and 8 of the said Act in Nashik. Hence it is Applicant's submissions that both the Applications be heard by the Family Court at Nashik where Applicant is residing with the girl child. Submissions are advanced to the effect that it would be prejudicial to the Applicant to travel all the way to Chandrapur for attending the proceedings. That apart, it is also submitted that Application filed in the Family Court at Nashik cannot be allowed to remain there as it is since if that is allowed there would be two different Courts which will be hearing proceedings with respect to the same cause of action which are clearly interdependent on each other.

5. *PER CONTRA*, Ms. Punghera, learned Advocate for Respondent would submit that she may be allowed to take appropriate instructions and apprise the Court on the next adjourned date. The issue of hardship shall be considered by me on the next adjourned date after hearing learned Advocate for Respondent.

6. Stand over to 4th October 2024.

[MILIND N. JADHAV, J.]

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