



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6663 OF 2025

Siddharth S/o Gorakshnath Tupsagar
Age: 40 years, occu: Private Service,
R/o near Hanuman Temple, Mhada Colony,
Chikalthana, Chh. Sambhajinagar
Dist.: Chh. Sambhajinagar

.....PETITIONER

VERSUS

1. Nandini W/o Siddharth Tupsagar,
Age: 25 Years, Occu: Household,
R/o. C/o. Kalinda Amrish Gaikwad,
Vakilwadi, Tq. Kaij, Dist. Beed
2. Asit @ Ankur S/o Siddharth Tupsagar,
Age: 1.5 Years, Occu : Nil
Minor, Us/g of his Mother i.e. respondent no.1
Nandini W/o Siddharth Tupsagar,
Age: 25 Years, Occu: Household,
R/o. C/o. Kalinda Amrish Gaikwad,
Vakilwadi, Tq. Kaij, Dist. Beed

.....RESPONDENTS

Mr. M. P. Gandle, Advocate for the Petitioner
Mr. A. R. Tapse, Advocate for Respondents

CORAM : ROHIT W. JOSHI, J.

DATED : 01ST JULY, 2025

ORAL JUDGMENT :-

. The present petition arises out of order dated 17.05.2025, passed by the learned District Judge-2, Kaij in case filing no.107 of 2025, which is now registered as Civil M.A. No.20 of 2025.

2. The application was filed by the present petitioner, seeking custody of his child named Asit @ Ankur due to medical emergency of performing open heart surgery of the child. Since, the learned Court did not permit circulation of the matter during summer vacation, the petitioner had approached this Court seeking appropriate orders in the matter.

3. Vide order dated 27.05.2025, this Court directed the respondent/mother to place the child in custody of the petitioner/father since the father had made arrangements for surgery of the child at M.G.M. Medical Center and Research Institute, Aurangabad. The surgery could not be performed as scheduled in the first week of June, 2025, due to certain medical complications. The surgery was initially planned to be performed at M.G.M. Medical Center and Research Institute, Aurangabad. However, subsequently the child was hospitalized at Kokilaben Dhirubhai Ambani Hospital and Medical Research Institute, Mumbai. The child has undergone the surgery at the said hospital on 18.06.2025 and is discharged from the hospital on 28.06.2025. The emergent medical situation due to which the present petition was

entertained and orders were passed has now been addressed, and the child is now presently in custody of the father.

4. The learned Advocate for the petitioner/father reiterates the earlier statement that even now the mother will continue to have unlimited access to the child. The child is presently residing at the residential house of the petitioner at Aurangabad at the address mentioned in the cause title of the petition. Since, the emergent situation is now duly addressed, it will be expedient that the petition is disposed of leaving custody issue of the child to be decided by the Competent Court.

5. As stated above, the child is presently in the custody of petitioner/father, the respondent/mother is at liberty to move appropriate application before the learned District Judge, seeking custody of the child during pendency of the main proceeding. The said application, if filed, be decided by the learned Court having regard to the general welfare and medical condition of the child.

6. In the order dated 27.05.2025, an observation was made with respect to conduct of the learned Judge. The matter could not have decided without making the said

observation. In view of the above, word numbers 8 to 12 in line no.5 and word nos.1 to 10 in line no.6 of paragraph 2 of the order dated 27.05.2025 passed in the present petition be deleted. Likewise the name of the learned Judge also be deleted from the body of the order dated 27.05.2025. Corrected order dated 27.05.2025 be uploaded on the official website.

7. The Writ Petition is **disposed** of accordingly.
8. Civil Application, if any, stands disposed of.

(ROHIT W. JOSHI, J.)