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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6252 OF 2025
WITH
INTERIM APPLICATION NO. 8647 OF 2025
IN
WRIT PETITION NO. 6252 OF 2025
WITH
WRIT PETITION NO. 6253 OF 2025
WITH
INTERIM APPLICATION NO. 8327 OF 2025
INTERIM APPLICATION NO. 7716 OF 2025
IN
WRIT PETITION NO. 6253 OF 2025**

Vaishnavi Caim Sambuddha

.....Petitioner

Vs.

Alok Nath Sambuddha

.....Respondent

Ms. Vidhya Iyengar h/f Ms. Vidhya Iyengar and Associates for the
petitioner

Mr. Naveen Sharma (through VC) for the respondent

CORAM : GAURI GODSE, J.

DATE : 12th JUNE 2025

ORDER:

1. By order dated 10th June 2025, a suo motu contempt notice is issued to Respondent No. 1 for committing willful breach of orders passed by this Court, read with the order of access passed by the Hon'ble Apex Court. By order dated 10th June 2025, the

respondent-father was directed to hand over the child to the mother by 11th June 2025 at 6.00 p.m. The petitions were directed to be listed today for recording compliance.

2. The respondent-father failed to comply with the directions issued by this Court. Hence, to enable the learned counsel for the respondent-father to take appropriate instructions as to whether he is ready to abide by the directions issued by this Court, the petitions were kept back for some time. On the second call, learned counsel for the respondent-father submits that he has no positive instructions from the father regarding compliance with the directions issued by this court. This Court is therefore convinced that the respondent-father has aggravated the contempt. Hence, the office is directed to issue a fresh notice under Rule 9 of Contempt of Courts (Bombay High Court) Rules, 1994 to Mr. Alok Nath Sambuddha for committing willful breach of the order passed by this Court on 10th June 2025, returnable on 14th July 2025.

3. For clarification, it is necessary to note the earlier orders. On 16th December 2024, the following directions were issued by the Hon'ble Apex Court, in the special leave petition filed by the

mother:

"Leave granted.

The appellant is aggrieved by the High Court declining to grant an interim order in Appeal From Order No. 850/2024 on Interim Application No.15214/2024 filed by the appellant herein.

We have heard learned senior counsel for the appellant and learned counsel for the respondent.

The controversy in this appeal is in a very narrow canvas. The parties are at loggerheads with regard to the interim arrangement made by the Family Court which was assailed by the appellant herein before the High Court. The Family Court had directed that on second and fourth Saturdays of every month, the respondent would have the opportunity of interact with the minor daughter between 12.00 noon and 6.00 P.M. It is not in dispute that the appellant resides at Mumbai and the respondent resides at Pune. Therefore, there is no question of overnight custody being given to the respondent at present. But the opportunity for the respondent to exercise his visitation rights also requires consideration.

Consequently, pending disposal of the appeal before the High Court, the respondent can exercise his

visitation rights to meet the minor girl child between 12.00 noon and 6.00 P.M. on the second and fourth Saturdays of every month in Mumbai City.

It is needless to observe that the appellant herein could also accompany the minor child and the respondent while he exercises his visitation rights on the aforesaid days and timings in Mumbai city.

The aforesaid arrangement shall continue pending disposal of the appeal filed by the appellant herein before the High Court.

This appeal is disposed of in the aforesaid terms.

It is needless to observe that the directions given above shall be strictly complied with by both the parties.

All contentions are left open to be advanced before the High court and/or family court.

Pending application(s), if any, shall stand disposed of.”

emphasis applied by me

4. Thereafter, this Court vide order dated 25th April 2025 had passed the following order:

“1. Not on board. Taken on the production board.

2. This appeal is preferred by the mother of the minor child challenging the order passed by the learned district judge on 10th April 2025. By the impugned order, overnight custody is granted to the respondent-father. This order is passed under the provisions of the Guardians and Wards Act, 1890.

3. Learned counsel for the respondent raises preliminary objections that this appeal is not maintainable. Learned counsel for the appellant submits that the appeal would be maintainable under the provision of Guardians and Wards Act. He further submits that Appeal from Order No. 850 of 2024, arising out of order passed for interim custody is already pending before this court and the next date is 2nd May 2025.

4. Learned counsel for the appellant submits that the Hon'ble Apex Court has already passed the order granting visitation rights to the respondent-father during the pendency of the appeal which is listed on 2nd May 2025.

5. In view of the aforesaid, list this appeal on 2nd May 2025 alongwith Appeal from Order No. 850 of 2024. In view of the order already passed by the Hon'ble Apex Court on 16th December 2024, the execution and implementation of the impugned

order shall remain stayed till further orders.

6. List both the appeals on 2nd May 2025.”

5. Being aggrieved by the order dated 25th April 2025, the respondent-father had approached the Hon’ble Apex Court. The Hon’ble Apex Court granted liberty to the father to mention the petition before this Court either for vacating the order dated 25th April 2025 or passing the orders regarding vacation access. The issue regarding preliminary objection about the maintainability of the appeals was also permitted to be raised before this Court. Hence, on 2nd May 2025, the appeals were heard on preliminary objection and interim relief. Since the appeals were found to be not maintainable, the appellant was permitted to convert the Appeal From Orders into Writ Petitions. While permitting the conversion of the Appeals into Writ Petitions, the following directions were issued in paragraph 5 in Appeal From Order No. 258 of 2025, which read as under.

“5. Learned counsel for the appellant submits that to enable the appellant to seek appropriate interim relief from the writ court, the interim relief granted by this court on 25th April 2025 be extended at least for a

week. Learned counsel for the respondent vehemently opposes the extension of the interim relief. He submits that the appellant has committed a breach of the impugned order and taken away the minor child out of the jurisdiction of the court. Learned counsel for the appellant denies the allegations. The issue involved is regarding custody of the minor child and the parties have made serious allegations against each other. The minor girl child is only around nine years old and is residing with the mother. Considering the sensitivity involved in the allegations made against the respondent, I find it appropriate in the interest of the minor child to extend the interim order passed by this court on 25th April 2025 for one week from today to enable the appellant to seek appropriate interim relief in the writ petition.”

6. So far as Appeal From Order No. 850 of 2024 is concerned, the following directions were issued in paragraph 8, which read as under:

“8. After the amendment is carried out, office is directed to convert this appeal into writ petition. In this appeal, the Hon’ble Apex Court has already issued directions on 16th December 2024. Hence, no further directions are necessary in this appeal.”

7. Thus, considering the directions issued by the Hon'ble Apex Court on 16th December 2024 and the aforesaid directions issued by this Court on 2nd May 2025, the order passed by the District Court on 10th April 2025 remained stayed till 9th May 2025. So far as the order dated 19th November 2024 passed by the District Court is concerned, the directions issued by the Hon'ble Apex Court on 16th December 2024 were directed to continue during the pendency of the appeals before this court. The appeals are permitted to be converted into writ petitions; hence, the directions issued by the Hon'ble Apex Court vide order dated 16th December 2024 would continue to operate during the pendency of the writ petitions or until further orders are passed by this court or the Hon'ble Apex Court.

8. However, on 7th May 2025, the respondent-father implemented the order passed by the District Court on 19th November 2024 and took away the child with the police assistance. Thus, taking over custody of the child during the pendency of the aforesaid directions amounts to committing contempt of the orders passed by this Court and the Hon'ble Apex Court. The respondent-father has committed aggravated contempt

by not complying with the directions issued by this Court on 10th June 2025.

9. Learned counsel for the respondent-father on instructions submits that one week's time may be granted to enable the father to attend the counselling session before the learned Mediator appointed by this Court.

10. It is necessary to record that the minor girl child aged 7 years (wrongly mentioned as 9 years in earlier orders) has always been in the custody of the mother, and it is for the first time that the father has taken away the custody on 7th May 2025. It is important to note that the Hon'ble Apex Court vide order dated 16th December 2024 had permitted the respondent-father to meet the child on weekends in the presence of the mother and also observed that at this stage there was no question of overnight custody being given to the father. Thus, by completely disregarding the directions issued by the Hon'ble Apex Court on 16th December 2024, the father took over the child on 7th May 2025 and refused to hand the child back to the mother.

11. The child has already undergone trauma by shifting custody

with the help of the police. The issue of change of a minor child's custody is required to be handled in a sensitive manner. Hence, considering the child's welfare and interest, this Court finds it appropriate to give one more opportunity to the father to hand over the custody of the minor child to the mother, latest by 6.00 p.m. on 14th June 2025. It is, therefore, clarified that the order issuing a suo motu contempt notice to the father on 10th June 2025 and the notice for aggravated contempt issued by this order shall remain in abeyance till 14th June 2025.

12. If the father fails to comply with the directions, the contempt notice as per order dated 10th June 2025 and today's order shall be issued by the office. If necessary compliance is made, learned counsel for the respondent-father is at liberty to place on record the particulars of the compliance by submitting a praecipe in the Registry.

13. The directions issued by this Court in paragraph 17 of the order dated 10th June 2025 are required to be clarified as the main custody petition, Civil M.A. No. 90 of 2023 is still pending before the District Court. Hence, the directions issued in the last two lines

of paragraph 17 of the order dated 10th June 2025 are substituted as follows;

“it is clarified that if the District Court proceeds to hear any fresh interim application in the pending proceedings, the learned District Judge shall take a note of the directions issued from time to time by this Court and the directions issued by the Hon’ble Apex Court.”

The order dated 10th June 2025, be accordingly corrected and the corrected order be uploaded.

14. For recording compliance and further directions, list these petitions on 16th June 2025, **first on board**. The Respondent No. 1- Alok Nath Sambuddha, shall remain present in court on 16th June 2025.

[GAURI GODSE, J.]