

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

Vaishnavi Caim Sambuddha	...	Petitioner
Vs.		
Alok Nath Sambuddha	...	Respondent

Mr. Shiv Shankar Banerjee (through VC) with Ms. Vidhya Iyengar i/by Ms. Vidhya Iyengar & Associates, Advocates for the Petitioner.

Mr. Naveen Sharma (through VC), Advocate for the Respondent No.1 in the first session. Ms. Sushmita (through VC), Advocate for the Respondent No.1 in the second session.

CORAM : GAURI GODSE, J.

DATE : 16th JUNE 2025

ORDER :

1. By order dated 12th June 2025 respondent no. 1 was directed to remain present in the court today. Suo moto

contempt notice is issued against respondent no. 1 by order dated 10th June 2025. By order dated 12th June 2025 notice of contempt is issued as respondent no. 1 has aggravated the contempt. However, both the orders issuing contempt notice are kept in abeyance, and respondent no. 1 was granted time to comply with the directions to hand over custody of the minor child to the mother.

2. By order dated 12th June 2025 respondent no. 1 was directed to remain present before this court. However, by showing complete disregard to the order passed by this court respondent no. 1 has refused to remain present before this court. Learned counsel for respondent no. 1 submits that the order dated 10th June 2025 is challenged before the Hon'ble Apex Court. He submits that the date before the Hon'ble Apex Court is fixed on Friday, 20th June 2025. He therefore request that these matters be taken up in the next week.

3. At the cost of repetition I find it necessary to record that respondent no. 1 was refused overnight access by this court as well as the Hon'ble Apex Court. In order dated 16th December 2024 the Hon'ble Apex Court observed that there was no question of overnight custody given to respondent at

this stage. In order dated 12th June 2025 this court has clarified the orders passed by the Apex Court as well as this court.

4. The minor girl child aged seven years 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 in breach of the orders passed by this court as well as the Hon'ble Apex Court.

5. Time and again this court had expressed that the petitions are required to be first heard on admission. It was also expressed time and again that in the meantime the respondent-father can always be permitted to meet the child in the presence of the mother as it is observed by the Hon'ble Apex Court in the order dated 16th December 2024. Time and again opportunity was given to respondent no. 1 to co-operate, as the issue regarding change in custody of the minor child is required to be handled in a sensitive manner. It is unfortunate that respondent no. 1 has refused to co-operate and in breach of the orders, has forcibly taken away custody of the minor child with the help of the police.

6. It is unfortunate that complete disregard is shown by

respondent no.1 to the orders passed by this court as well as the orders passed by the Hon'ble Apex Court.

7. At this stage learned counsel for respondent no. 1 submits that upto 18th July 2022 respondent no. 1 was permitted overnight access. He submits that only after the criminal complaint was filed overnight access has been refused to respondent no. 1. He relied upon contents of FIR dated 21st July 2022. This court is not inclined to examine contents of the FIR at this stage. The allegations made by the mother are sensitive in nature and thus cannot be dealt with without proper hearing to both the parties. Hence, even on earlier occasions considering the sensitivity of the allegations made concerning the minor girl child, respondent no. 1 was granted opportunity to handover custody of the minor girl child to the mother. However, there is no co-operation from respondent no.1.

8. Learned counsel for respondent no. 1 submits that he shall take instructions from respondent no. 1 whether he would be agreeable to co-operate regarding handing over of custody to the mother at this stage and remain present before the court tomorrow 17th June 2025.

9. The petitions were therefore kept back in the second session.

10. In the second session, learned counsel for the Respondent No.1, on instructions, submits that the hearing is kept before the Hon'ble Apex Court as High on Board on 20th June 2025. She therefore requests that these petitions be listed and heard on 23rd June 2025.

11. The learned counsel for the mother makes a grievance that she is not even allowed to meet the minor child and she has not even seen the minor child for last thirty five days. She therefore requests that the respondent father be directed to permit the mother to meet the child.

12. The learned counsel for the Respondent No.1 on instructions requested that the petition be heard on 23rd June 2025 as before the Hon'ble Apex Court, the SLP is listed High on Board on 20th June 2025. However, in response to the aforesaid grievance made by the learned counsel for the mother, the learned counsel for the Respondent No.1 submits that she has no instructions and whereabouts of Respondent No.1 are also not known. This is a strange response on behalf of Respondent No.1, that only regarding

making a statement to permit the mother to meet the child, learned counsel for the Respondent No.1 has no instructions.

13. However, considering that the matter is listed before the Hon'ble Apex Court on 20th June 2025, list these petitions on 23rd June 2025. I hope that order dated 12th June 2025 and today's order are brought to the notice of the Hon'ble Apex Court.

14. To be listed High on Board in the caption "For Fresh Admission" on 23rd June 2025.

[GAURI GODSE, J.]