

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18646 OF 2024

Akshay S/O Keshavrao Shinde

...Petitioner

Versus

Sonal W/O Akshay Shinde

...Respondent

-
- Mr. Siddhesh Bhole a/w Mr. Arjun Thakur and Mr. Kartik Pillay, for the Petitioner.
- Mr. Prajay Kutkar i/b. Sudatta J. Patil, for the Respondent.
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CORAM : MANJUSHA DESHPANDE, J.

DATE : 18th DECEMBER 2025

P.C.:

1. The original papers of the Writ Petition are not placed before this Court. Learned Advocate for the Petitioner has relied upon a photocopy of the Writ Petition along with its annexures, which have been handed over to this Court across the Bar. The said documents are not disputed by the learned Advocate appearing for the Respondent.

2. The learned Advocate for the Petitioner assails the order

Kartikeya, PA

dated 19.10.2024, passed by the Family Court, Mumbai, in Petition No. A-1627 of 2022, below Exhibit 11. By the said Application, the Petitioner sought regular and Diwali access to his minor son, Vihaan. The said Application was opposed by the Respondent–wife on the ground that, the child is of tender age, being about 6 years old, and has never lived separately from his mother. It was contended that, in these circumstances, grant of overnight access to the father would not be appropriate. It was further her case that, she has never obstructed or denied access to the child, but that the father is only interested in seeking access, while neglecting the ancillary issue of maintenance, which is necessary for the day-to-day survival of the mother and the minor child.

3. After considering the Application filed by the Petitioner and the response of the Respondent-Wife, the Judge, Family Court No.3, Mumbai, has passed an order refusing the access to the Petitioner on the ground that overnight Diwali access cannot be granted since the child has never resided at any earlier point of time with the father. The Petitioner is residing at Pune, while the Respondent is residing at Belapur. In such circumstances, the Court held that, permitting the minor to stay overnight with the

Petitioner, with whom the child is not regularly acquainted, would not be in the best interest of the child.

4. The learned Advocate for the Petitioner submits that, in fact, in his Application before the Family Court, apart from overnight access, he has made various other prayers regarding regular virtual access through video call; his participation in the school activities and academics of the minor son; 50% of overnight vacation access to meet his minor son Vihaan, during Diwali, Christmas, and other school vacations, and various other types of reliefs enumerated in Paragraph No.12 of the Application.

5. Without considering the other prayers set out in the Application, the Application has been disposed of by the Judge, Family Court, by only deciding the issue of overnight access. Therefore, the other reliefs regarding access needs to be decided.

6. The submission made by the learned Advocate for the Petitioner is opposed by the learned Advocate for the Respondent, contending that the Petitioner is only claiming access when, in fact, in the DV Application, the maintenance granted to the Respondent

was not paid by the Petitioner unless coercive action was taken by the Respondent.

7. Therefore, keeping in mind this conduct of the Petitioner, he does not deserve access. However, according to the Respondent, the access is being given by the Respondent whenever the father comes to meet the child.

8. It is submitted by the learned Advocate for the Petitioner that, though it is admitted that he has been given access to the child, the fact remains that this access is only in the presence of the Respondent. Therefore, the child is not freely interacting with the father. Hence, an unsupervised access needs to be granted to the father.

9. Upon perusal of the Application as well as the impugned order, it is evident that the Judge, Family Court, has only decided the issue of overnight access and has not granted the other prayers made by the Petitioner nor rejected them by passing a reasoned order for refusing the same. In fact, in the order itself, it is recorded that the well-being of the child is the paramount consideration and

every child needs the love, care, and protection of the father. It is informed that the son Vihaan is now 7 years old. Though the Divorce proceedings between the parties are pending before the Court, the child needs the love and affection of both parents equally. Therefore, considering that the child is seven years old, the father cannot be deprived of access to the child, and it would be in the interest of both the child as well as the father to frequently meet and establish a relationship between them.

10. In view thereof, in my opinion, it would be appropriate to remand the matter back to the Family Court to pass appropriate orders on the Application filed by the Petitioner after considering all the prayers made by him.

11. In the meanwhile, the Petitioner is granted unsupervised access to the child Vihaan on every weekend between 11:00 a.m. and 5:00 p.m. The child will be picked up by the father from the residence of the Respondent–Mother and will be returned by 5:00 p.m. This arrangement shall continue until the disposal of the Application.

12. However, it is made clear that the child shall not be taken out of the jurisdiction of Navi Mumbai. This order is passed without prejudice to the rights and contentions of the parties, and is subject to the outcome of the Application before the Family Court.

13. In view of the above, the **Writ Petition stands disposed of.**

(MANJUSHA DESHPANDE, J.)