

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.66 OF 2025
WITH
INTERIM APPLICATION (STAMP) NO.28007 OF 2025
WITH
INTERIM APPLICATION (STAMP) NO.30259 OF 2025

Virendra Arvindkumar Desai

Petitioner

versus

Rachana Virendra Desai

Respondent

Mr.Akash Vijay for Petitioner and for Applicant in IA(St).30259/2025.

Ms.Rimpal Trivedi with Ms.Harshida Bhanushali i/by Unison Legal for
Respondent.

CORAM: AARTI SATHE, J.

DATE: 1st December 2025

P.C.

1. This Contempt Petition has been filed alleging contempt of the order dated 4th November 2023 passed by this Court wherein following order was passed:

1. Ms. Solanki, learned Counsel appearing for Respondent seeks time to file reply to the Interim Application. She is permitted to file the reply on or before 30th November 2023.
2. Mr. Vijay, learned Counsel appearing for Petitioner has a grievance that the Petitioner has not been given access to his minor child of 9 years despite an order dated 10th May 2023 passed by the Family Court, Mumbai. He is at liberty to meet the child during Diwali in terms of Clause (6) of the order dated 10th May 2023.
3. List the matter on 4th December 2023.”

2. Petitioner also has alleged contempt of the order dated 10th May 2023 passed by Family Court whereby the Family Court directed as follow :

- “1. This application is partly allowed as follows.
2. Respondent is provided physical access with the child on every Sunday between 5.00 pm to 8.00 pm starting from 14/05/2023 till disposal of the main petition. Respondent shall pick up the child from the residence of petitioner at 5.00 pm and drop back the child at 8.00 pm.
 3. This physical access shall be in supersession of the access provided by the consent terms in the children complex of this Court. In other words, the access at the children complex is discontinued.
 4. The virtual access agreed by the consent terms at Exh.19 on every Tuesday and Thursday shall continue except with the modification of time. The Virtual access shall take place between 7.00 pm to 7.30 pm starting from 16/05/2023 till disposal of the main petition.
 5. Respondent shall be entitled to Summer vacation access for five days (Monday to Friday) between 10.00 am to 4.00 pm in the Second last week of the vacation.
 6. In Diwali and Christmas vacation respondent shall have access on last three days between 10.00 am to 4.00 pm only if the holidays of the child are for a period of ten or more days.
 7. Respondent shall pick up the child from the residence of petitioner and drop back the child after the access.
 8. In case of any difficulty in the schedule of the child during vacation access, it shall be compensated by interchanging the days of access.
 9. Respondent shall be entitled to celebrate the birthday of the child on 17th January and celebrate his birthday with the child on the birthday date between 6.00 pm to 8.00 pm at a public place like restaurant situated in close vicinity of the residence of the child. Respondent shall intimate the selected venue three days in advance to petitioner by an email.
 10. In case any access could not be possible for some unforeseen circumstances, petitioner shall compensate the same by adding the hours of access on the subsequent day of access.

11. The Diwali and Christmas Vacation access if not be implemented for some unavoidable reasons, respondent shall not be entitled for its compensation.

12. Respondent shall not behave in any manner detrimental to the physical and emotional health of the child during the access.

13. The Prayers for overnight access, for taking the child to Surat and for access on every important day are rejected.

14. Any unjust disobedience of this order shall ensue stern adverse action against the defaulting party.”

3. After going through the Court record it is seen that this matter has come up on several occasions and has been heard considerably and at length from time to time. The last order dated 18th September 2025 passed by this Court has issued a notice under Rule 9 of the Contempt of Courts (Bombay High Court) Rules, 1994 to the Respondent Rachana Virendra Desai, which was made returnable on 9th October 2025. This Court also has categorically held in the said order that the Respondent-Contemnor to take steps for purging the contempt by giving meaningful access to the Petitioner-Father as also video access.

4. Learned counsel for the Petitioner has submitted that this order of the Court also has not been complied by the Respondent-Wife and he is not getting meaningful access of the child and it is his submission that the child has been tutored against him by the Respondent-Wife. This position is disputed by the learned counsel for Respondent-Wife and it is submitted that at all times the access is given to the Petitioner-husband and at no point of time the child has acted aggressively or has been tutored. She pointed out that in the order dated 18th September 2025 passed by this Court it has been observed that a report dated 16th September 2025 submitted by the High Court Legal Services Committee, Mumbai and more particularly the report of Para Legal Volunteers shows that the child was reluctant to communicate with his father. It is further submitted by learned counsel for the Respondent-Wife that in Family Court’s order dated 10th May 2023 it is categorically recorded (para 16 at page 48 of paper book) that the mother has not tutored the child and the child has a sound intelligence to understand and

assimilate the things around him. Meticulous scrutiny of the interview report also eliminates the possibility of any tutoring.

5. The Petitioner, however, stressed that the Respondent-Mother should comply with the order passed by this Court dated 4th November 2023 and order dated 10th May 2023 passed by Family Court and give access to the Petitioner-Father. It is his submission that in fact it is on the tutoring of the Respondent-wife that access has been denied to him.

6. Today both the sides i.e. father and mother of the child are present in person in Court. The Respondent-Wife has given an undertaking that she will ensure that over and above the access she is giving to the Petitioner, she will ensure that she will give uninterrupted and meaningful access of the child to the Petitioner.

7. I have heard both sides and it is to be borne in mind that it is a child's right to have the company of both his father and mother. The child cannot be denied of his valid legal right because of warring parents. Both parents hence to encourage the child to exercise this right and ensure that nothing comes in the way of that and the child gets to enjoy the company of both parents. Hence an endeavour to settle issue of access by both parties is necessary as the Petitioner-father is also entitled to meet the child. In view thereof, the following order is made and both parties shall secure that meaningful access given by the Respondent-Wife to the Petitioner, in view of purging the contempt, as alleged in the petition.

ORDER

(i) The Respondent-Wife to give meaningful and independent access to the Petitioner on every Sunday between 11.00 a.m to 4.00 p.m. The access shall start from 7th December 2025;

(ii) Additionally the Respondent-Wife to give two days access in the ensuing Christmas vacations, five days access in the summer vacations and three days access in Diwali vacations between 10.00 a.m to 4.00 p.m;

(iii) Petitioner shall pick up the child from the residence of the Respondent-Wife and drop the child back after access;

- (iv) Both the Petitioner and Respondent to endeavour that the child will not be inconvenienced at any stage and their personal disputes and prejudices should not harm the child's psychology;
- (v) It is directed that in the mean while, the counselling of the child which is at Nair Hospital with Child Psychologist to continue;
- (vi) The Contempt Petition stands disposed of;
- (vii) Interim Application (Stamp) No.28007 of 2025 and Interim Application (Stamp) No.30259 of 2025 also stand disposed of;
- (viii) Place the Contempt Petition for reporting compliance on 15th December 2025.

(AARTI SATHE, J.)