

Ajay / Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 593 OF 2024

Jena Aakash Raghani

.. Petitioner

Versus

Aakash Kishore Raghani

.. Respondent

.....

- Mr. Ram M. Upadhyay, Advocate for Petitioner.
- Ms. Aishwarya Kantawala a/w Ms. Diya Jayan and Ms. Ayushi Jha, Advocates for Respondent.

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CORAM : MILIND N. JADHAV, J.**DATE : JUNE 11, 2025****P. C.:**

1. Heard Mr. Upadhyay, learned Advocate for Petitioner and Ms. Kantawala, learned Advocate for Respondent.

2. Mr. Upadhyay, learned Advocate for Petitioner has informed the Court that the Supreme Court has rejected the claim of custody of the Respondent – father. I have attempted to reason out with the learned Advocate for Respondent – father to comply with the order of custody, failing which this Court will have to step in.

3. Advocate for Respondent – husband has vehemently persuaded me to consider the fact that he is willing to handover custody but the daughter is unwilling to go to Petitioner and in that regard some Senior Advocate be appointed to interview the daughter to ask her willingness/say. I do not wish to consider this submission

and reject it outrightly. Orders passed by the Court to hand over custody need to be followed/abided by the Respondent. The Supreme Court has upheld two orders passed by this Court. It is clearly evident that Respondent is attempting to frustrate the orders of the Court and raise further issues to protract the handover. That apart, age of the daughter is merely 8 ½ to 9 years and therefore the Respondent as a father should also realise that the daughter will need the mother's company for her emotional, psychological development and growth. Mr. Upadhyay has made his submissions which I do not wish to delineate in detail herein for the present as primarily abiding by the orders of the Court at this stage is required to be complied with by the Respondent.

4. Mr. Upadhyay, learned Advocate for Petitioner has drawn my attention to the Family Court order dated 20.08.2024 and this Court's order passed in Writ Petition No.17547 of 2024 dated 10.03.2025 (Coram: Madhav J. Jamdar, J.) and the Supreme Court order passed in SLP(c) No(s).10987 of 2025. I have perused the 3 orders.

5. By virtue of the order dated 20.08.2024, Respondent – Contemnor was directed to hand over custody of the daughter to Petitioner – mother by delivering the child to her residence on 23.08.2024 between 04:00 p.m. to 05:00 p.m.. Respondent –

Contemnor did not comply with that order and till today has successfully managed to protract the said order by filing several proceedings and taking up various grounds in order to frustrate the said order.

6. There are several orders passed in the interregnum requiring compliance of the above order but to no avail. Dismissal of Writ Petition No.17547 of 2024 by order dated 10.03.2025 once again required Respondent – Contemnor to comply with the aforesaid order but Respondent did not choose to do so. He approached the Supreme Court to challenge the order dated 10.03.2025 and by order dated 29.04.2025 the SLP was withdrawn by Respondent and it was dismissed as withdrawn.

7. Record shows that prior to the above round of litigation in the Supreme Court, Respondent – Contemnor had also challenged the interlocutory order dated 12.02.2025 passed in the present Contempt Petition which recorded as under:-

“1) The hearing of the Contempt Petition is deferred by period of two weeks by way of last chance in order to enable the Respondent to prosecute the Petition challenging the orders passed by the Family Court. It is made clear that if Respondent is unable to produce any order staying the order passed by the Family Court on the next date of hearing, this Court would be constrained to initiate Contempt of Court proceedings against the Respondent for breach of the orders passed by the Family Court where the Respondent has retained custody of the daughter, which was handed over to him merely during summer vacation.

2) In the meantime, the Respondent shall provide physical visitation right to the Petitioner (Mother) on every Sunday between 2.00 pm. to 5.00 pm.

3) *List the Contempt Petition on 11 March 2025.”*

8. The challenge to the above order by way of SLP was also dismissed by order dated 28.03.2025. It is seen that considering the issue involved in the present Contempt Petition, several orders were passed by this Court in the Contempt Petition beginning from the orders dated 25.10.2024, 27.11.2024 and the above referred orders and Respondent – Contemnor has successfully managed to protract and delay compliance of the above order of custody by filing the proceedings. In the interregnum Respondent also changed his Advocate.

9. Today, when the matter was argued before me at the outset an attempt was made by Advocate for Respondent to once again stifle and protract the order of custody by raising a bogey that this Court should appoint a Senior Advocate of this Court to interview the child and ask the child her wish. I get the distinct feeling that the learned Advocate for Respondent is not only attempting to protract the implementation of the orders passed by the Family Court, this Court and the Supreme Court but every attempt in the book is made to ensure that custody of the daughter is not given to the mother. The Advocates are officers of the Court first. They cannot act as a mouthpiece of their client.

10. Only after I reasoned up with the learned Advocate, learned Advocate accepted to inform the Respondent to comply with the order of custody. During the course of hearing, Respondent – Contemnor is present in Court before me and he on his own raised his hand and requested to address the Court and on permitted stated that he is ready to hand over custody of the daughter to the mother i.e. his wife provided the venue for handing over custody is a neutral venue.

11. This Court simply does not understand the conditionalities put forth by Respondent – Contemnor. Be that as it may, in the larger interest of the daughter and for compliance of the orders passed by the Courts before taking any further steps for issuance of notice for contempt as I am fully convinced that there is willful disobedience and dereliction on the part of Respondent – Contemnor to defy the orders of this Court and to a certain extent the Respondent – Contemnor has been successful in protracting and prolonging the inevitable, I am inclined to accept his request in the larger interest. However since an affirmative submission has come from the Advocate for Respondent – Contemnor and the Contemnor himself being present in Court that he shall hand over custody of the daughter to Petitioner – mother, I propose to give one final opportunity to Respondent to comply with the order of grant of

custody of the daughter to the mother and apprise the Court about the same on the next adjourned date.

12. Both the learned Advocates have been fair to the Court and therefore they would jointly inform that they shall meet and decide upon the neutral venue where the custody is required to be handed over by Respondent to Petitioner so that orders of the Court can be complied with. To that extent, adhering to the request made by both the learned Advocates, I do not find any reason as to why any further order is required to be passed even though there was a clear direction in the order of the Family Court that custody was to be handed over at the residence of the Petitioner.

13. However since Respondent has made the above request on his own of handing over custody at a neutral venue, this Court also needs to understand the reasons for the same and allow the said request.

14. Respondent – father is present in-person in the Court today. He is directed to hand over custody of the daughter to the mother in compliance with the order of the Court. He has requested the Court that he shall hand over custody of the daughter to Petitioner at a neutral place which may be fixed by the Court. Both the parties/Advocates are directed to confabulate about the above as the order is otherwise clear. It should be kept in mind that paramount

interest is of the daughter which will be in the interest of the parties and the daughter as also in accordance with the orders of the Court.

15. In view of the aforesaid proceedings between the parties time is granted to both parties and the learned Advocates to discuss with each other after taking appropriate instructions about the neutral venue for handing over custody of the daughter to the Petitioner and accordingly comply with the order and inform the Court on the next adjourned date.

16. List the Writ Petition on Board on **21st July, 2025 at 02:45 p.m. in Chamber.**

Ajay

[MILIND N. JADHAV, J.]

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