

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1150 OF 2025

Sunil Madhukar Tambe

..Petitioner

Versus

Nutan Kashinath Desai

...Respondent

Mr. Athar Qureshi, i/b Shraddha Vavhal, for the Petitioner.

Mr. Ganesh Gupta, with Sahil Ghorpade, Roshni Naaz, Madan
Khansole, Surya P. Gupta, Priyanka Rathod, Saimanohar Singh
& Jagrut Patil, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 28th JANUARY 2025

P.C.:

- 1.** Heard learned Counsel for the parties.
- 2.** The challenge in this Petition is to an Order dated 10th December 2024 passed by the learned Judge, City Civil Court in Notice of Motion No. 5875 of 2024 in Guardianship Petition No. 187 of 2024, granting access of child to the Petitioner on first Sunday of every month between 3 to 6 pm.
- 3.** The Petitioner is the father of a four year child. Respondent is the sister of the mother of the child, who passed away on 18th June 2023. The Respondent approached the Court with a case that the child was residing with the Respondent since his birth for 3 to 4 years. The Petitioner father has taken the custody of the child unlawfully.

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4. In the Guardian Petition, the Respondent prayed for interim relief. Recording that the child was staying with the Respondent for three to four years, the learned Judge directed that it would be appropriate to grant access of the child to the Respondent for the overall welfare of the child.

5. The learned Counsel for the Petitioner submitted that the learned Judge passed the Order without considering the objections raised by the Petitioner. In the event the access is granted, the Respondent would prejudice the child against the Petitioner.

6. Firstly, the Order impugned in this Petition is of interim nature. Secondly, the child is four years of age. Thirdly, the learned Judge has noted that the child was staying with the Respondent for about three years and was emotionally attached to the Respondent. Fourthly, access has been granted at a neutral place i.e. Seawood Mall, Nerul, Navi Mumbai and that too for a limited period of three hours once a month. Fifthly, in the peculiar circumstances of the case, the monthly access may promote the emotional and psychological welfare of the child. Lastly, the apprehension on the part of the Petitioner that during the said monthly access of three hours, the Respondent would poison the mind of the child and alienate the four year child from the Petitioner, appears unfounded.

7. In these circumstances, the Court does not find any justifiable reason to interfere with the impugned order.
8. I am, therefore, not inclined to entertain this Petition.
9. Petition dismissed.

[N. J. JAMADAR, J.]