

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3608 OF 2025

Mr. Avinash Suresh Tharani ...Petitioner

Versus

Dr. Barkha Avinash Tharani ...Respondent

Mr. S.G. Deshmukh a/w Mr. Ranvir Shekhawat i/by M/s Raj Legal,
Advocate for Petitioner.

Mr. Leon Samuel, Advocate for Respondent.

CORAM: MADHAV J. JAMDAR, J.

DATED : 13th March 2025

P.C.:

1. Heard Mr. Deshmukh, learned Counsel for the Petitioner and
Mr. Samuel, learned Counsel for the Respondent.

2. The challenge in the present Writ Petition is to the Order
dated 11th February 2025 passed by the learned Judge, 7th Family
Court, Mumbai below Exhibit 129 in Petition No.A-157 of 2019.

3. In the said Application bearing Exhibit 129, the Petitioner
has sought following reliefs :

“a) Unencumbered Overnight access on one weekend
to celebrate Navratri Festival 4th April to 6th April 2025
(Changes each year) as per dates of Navratri. The

Respondent will pick up the child from School and drop back on Sunday by 8 pm.

b) Celebrating Ved's Gradfather's Birthday on 14th February, every year. The Respondent will pick up the child from school on school days by 1:30 pm and other times the Petitioner to drop the child at the gate of Phoenix Market City Kurla by 3 pm and The Respondent would drop the child back by 9 pm at the Petitioner's Society Gate.

c) Access for celebrating Sindhi New Year (Gudhi Padva) 30th March 2025 (this year, dates Change each year), the Petitioner to drop the child at Phoenix Market City Kurla at 3pm and the Respondent shall drop the child back by 7 pm at Petitioner's Society Gate.

d) Access for celebrating festival of Holi on 14th March 2025 (this year, dates Change each year), the Petitioner to drop the child at Phoenix Market City Kurla at 3pm and the Respondent shall drop the child back by 8 pm at Petitioner's Society Gate.

e) That in the event a date of access is missed, the same be compensated.

f) Ad-interim reliefs be granted till the Application is disposed.

g) For such further and other orders as this Hon'ble Court deems fit in view of the facts and circumstances of the case.”

4. The learned Judge has granted relief regarding prayer clause (b), however, as far as the other reliefs are concerned, the learned Judge has observed as follows:

“Rest of the reliefs which applicant has prayed are in my opinion are at present not considerable.”

5. As, the learned Judge has only stated that the said prayers are at present not considerable, thus, it is clear that the learned Judge has not considered the said application on merits.

6. Accordingly, the impugned Order dated 11th February 2025 passed by the learned Judge, 7th Family Court, Bandra, Mumbai below Exhibit 129 in Petition No.A-157 of 2019 is quashed and set aside as far as relief claimed by prayer clauses (a) and (c) are concerned and said application is restored to file of the learned Family Court at Bandra, Mumbai.

7. The learned Judge, Family Court, Bandra, Mumbai is requested to dispose of the said application bearing Exhibit 129 on or before 26th March 2025.

8. It is made clear that this Court has not considered merits of said application bearing Exhibit 129 in Petition No.A-157 of 2019 and all contentions on merits are expressly kept open.

(MADHAV J. JAMDAR, J.)