

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5167 OF 2025

Shehzad Hemani

...Petitioner

Versus

Nadia Rashid

...Respondent

Mr. Aseem Naphade a/w Alya Khan & Akshit Tiwari i/b Vashi and Vashi,
for the Petitioner.

Ms. Veena Gowda a/w Aditi Uniyal, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.

DATED: 29 APRIL 2025

P.C.:

1. Heard Mr. Naphade, learned Counsel appearing for the Petitioner and Ms. Gowda, learned Counsel appearing for the Respondent.
2. The challenge in the present Writ Petition filed under Article 227 of the Constitution of India is to the Order dated 4th March 2025 passed by the learned Judge, 3rd Family Court, Mumbai below Exhibit - 185 in Petition No. D-40 of 2015. In said Application bearing Exhibit - 185 the following reliefs are sought :-

“a. This Hon’ble Court be pleased to direct the Respondent to rectify all such documents and/or applications and/or replies and/or petitions and [1] notarize and [2] legalize such document(s) presented by her under the present petition and legally attest them in the Netherlands as per due process of law;

b. In the alternative - this Hon'ble Court be pleased to discard and expunge all such documents and/or applications and/or replies and/or submissions as filed by the Respondent in the present petition, before this Hon'ble Court;"

3. It is the submission of Mr. Naphade, learned Counsel appearing for the Petitioner that the Petitioner is not pressing prayer clause (b) and he is only seeking that the Respondent be directed to rectify all such documents and/or applications and/or replies and/or petitions and notarize such documents.

4. In this context, it is required to note the reasoning given by the learned Judge, Family Court, Mumbai in said Order dated 4th March 2025, which reads as follows :-

"In, Neel Ratan Kundu V Abhijit Kundu (2008) SCC 413, Hon'ble Apex Court has held that, "while dealing with the custody cases family court is neither bound by the statute nor by the strict rules of the evidence or procedure. Every case before the family court has to be decided according to the peculiar facts and circumstances of that case. While dealing with such sensitive cases court is required to have a constructive and productive approach rather than theoretical or hyper technical approach".

Hence, merely the documents are not properly verified is not the cogent reason to expunge the documents. Right to defend can't be taken away because of any procedural fault. Moreover, the substantial document i.e. W.S. is already on record, thereafter issues are framed and part cross of the petitioner is already over."

5. Thus, the learned Judge of the Family Court has observed that the present petition is a custody petition and as far as the custody petitions

are concerned, the Courts are not bound by the hyper-technical approach and strict rules of the evidence. Accordingly, possible view of the matter is taken by the learned Family Court.

6. Thus, no case is made to interfere in the impugned Order under the jurisdiction of this Court under Article 227 of the Constitution of India.

7. The Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]