

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9613 OF 2025

Sneha Soni w/o Shaurya SoodPetitioner
Vs.
The State of Maharashtra & Anr.Respondents

Mr. Bharat Manghani, with Ms. Drushti Gala, for the Petitioner.
Mrs. Tanu N. Bhatia, AGP for Respondent-State.
Mr. Gaurao Wankhade, for Respondent No.2.

**CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.**

DATE : 26th AUGUST 2025.

ORDER :- (Per Dr. Neela Gokhale, J.)

1. The Petitioner seeks a direction that the Respondent No.2 namely, the Petitioner's husband be directed to take custody of the minor son, Samanvay aged about 10 years and the minor daughter, Nishtha aged about 9 years. The Respondent No.2 is the children's biological father.

2. Heard Mr. Bharat Manghani, learned counsel for the Petitioner, Mrs. Tanu N. Bhatia, learned AGP representing the Respondent No.1-State and Mr. Gaurao Wankhade, learned counsel for the Respondent No. 2.

3. It is the case of the Petitioner that she married the Respondent No.2 on 8th September 2013 and they have two minor children namely, Samanvay and Nishtha from their wedlock. The couple is presently estranged on account of marital discord. The Respondent No.2 is a Colonel and serving in the Indian Army. He is presently posted in New Delhi.

4. The Petitioner had approached the Army Authorities by applying for maintenance. She and the minor children were granted maintenance as per the Army Rules in that regard. She presently lives with her minor children in Mumbai in her parents' house. There appears to be multiple litigation between the husband and wife as well as the family members of the Respondent No.2. Mr. Manghani submitted that the Petitioner is unable to look after and care for the minor children on account of these multiple proceedings, which she has to attend. He also submitted that she does not have necessary financial wherewithal to continue to look after the minor children. He further submitted that the Petitioner's parents have asked her to leave their house. In these circumstances, she has filed the present Petition.

5. Looking at the tender ages of the children and the

sensitivity of the matter, we deemed it appropriate to interact with the parties and the children in the Chambers. The counsel of the Petitioner and the Respondent No.2's parents were also present during the interaction. We made an endeavour to bring about an amiable resolution between the parties, more so, in the interests of the minor children. We also interviewed both the minor children separately. Both the minor children appear to be confident and mature. They are ready and willing to reside with their father and grand-parents. The daughter appeared to suffer from a mild medical condition. We were shown some medical certificates issued by Navy Hospital INHS Asvini, Cuff Parade, Mumbai.

6. As a protem measure and in order to ascertain the relationship of the Respondent No.2 and his parents with both the minor children, we had directed the Petitioner to send the minor children on the weekends to the house of the grand-parents. Accordingly, for two consecutive weekends, the minor children were dropped by their mother to the grand-parents' house. We found that the minor children were quite affable with the grand-parents and were also comfortable with the Respondent No.2.

7. Despite our efforts to bring about an amicable resolution to the entire dispute between the Petitioner and the Respondent No.2, the parties were not amenable to settle their entire dispute. Hence, we decided to hear the matter in the Court.

8. Today during the course of the arguments, the counsel for the Respondent No.2, on instructions, stated that the Respondent No.2-father is ready and willing to take the custody of the minor children. He also stated that the Respondent No.2 is willing and happy to look after and care for the minor children. We ascertained this fact from the Respondent No.2 himself as well as his parents, who were present before us in the Court.

9. The Respondent No.2 being the biological father of the minor children, is their natural guardian. He is an Army officer and is presently posted in New Delhi. He is allotted a Government married accommodation in New Delhi and has sufficient place for the minor children to reside. He stated that he is also ready and willing to take his parents or either of them to reside with him in New Delhi and help out in looking after the minor children. Col. Sood also stated that he will take admission for the minor children in proper schools in New

Delhi and ensure their welfare and well being.

10. The Petitioner-Mother again brought to our notice the medical condition of daughter Nishtha and requested that the Respondent No.2 take appropriate steps in respect of Nishtha in terms of getting her medically checked and continuing her treatment in New Delhi. The Respondent No.2 was quick to indicate that he will definitely ensure that Nishtha gets appropriate medical treatment in New Delhi.

11. Considering the aforesaid, we are inclined to permit the Respondent No.2 to take the custody of both the minor children and accordingly, we pass the following order:

ORDER

(i) The Respondent No.2 is permitted to take custody of the minor children, Samanvay and Nishtha. He is permitted to take them to reside with him in New Delhi.

(ii) The Petitioner shall hand over all the documents, certificates, passport and all the belongings of the minor children to the Respondent No.2 so as to facilitate him to take admission of the minor children in a school in New Delhi. It is brought to our notice that some fees are due to be paid to their schools in Mumbai without payment of which the school may

not issue transfer certificates of the minor children. The Respondent No.2 is directed to settle the outstanding dues of the schools, if any and procure the transfer certificates. The Petitioner shall co-operate in this regard.

(iii) The Respondent No.2 shall take the custody of the minor children from the Petitioner only when he has made arrangements to take them to New Delhi to reside with him. We make it clear that he shall not leave the minor children with any other relative as a stop-gap or ad-hoc arrangement as the same is bound to emotionally disturb the minor children. Till such time, the minor children shall continue to reside with the Petitioner. In any case, the Respondent No.2 shall make arrangements to take the minor children with him to New Delhi within next two weeks.

(iv) The Respondent No.2 is directed to ensure medical assistance to minor daughter Nishtha particularly since she is already taking a course of some medication.

(v) The Petitioner shall be allowed unrestricted access to both the minor children on telephone or video conference at any time subject only to the convenience of the minor children. She is also to be given 50% of the long vacations of the minor children's schools and the minor children are to spend half of their vacation with the Petitioner, if she so desires. The Petitioner-Mother also has the liberty to take the minor children

overnight on any weekend in a month subject only to the convenience of the minor children. Both the parents to ensure that their actions shall not be against the interests of the minor children as paramount consideration must be given to their welfare and well being.

12. The Petition is allowed in the aforesaid terms and disposed of.

13. All parties to act on an authenticated copy of this order.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)

SHAMBHAVI
NILESH
SHIVGAN

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