

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.470 OF 2025
IN
FIRST APPEAL (ST) NO.1145 OF 2025

Niranajan Satish Gadiya

... Applicant.

Versus

Priyanka Niranjan Gadiya

... Respondent.

Mr. Naveen Kumar Sharma for the Applicant.

Mr. Prithviraj Lingayat and Ms.Pradnya Karandikar for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : March 05, 2025

P. C. :

1. First Appeal has been directed against the judgment dated 12th December, 2024 passed by the District Court in Civil Misc. Application No.1033 of 2024, granting custody of the minor child to the mother. The Petition was filed by the father seeking custody of the child under the provisions of the Guardians and Wards Act, 1890.

2. From the record it appears that an Application for amendment was pending before the District Court seeking amendment of the Petition for quoting the correct provisions as well as for substantial amendment in the body of the Petition. The Petition was filed in October, 2024 and the Application for

amendment was filed on 11th December, 2024. The District Court without considering the Application for amendment and without giving an opportunity of leading evidence to the parties, have delivered the Judgment on 12th December, 2024. The impugned judgment makes it clear that the District Court has not followed the procedure prescribed under the Guardians and Wards Act, 1890.

3. After hearing the parties for considerable length of time, learned counsel for the parties, on instructions of their respective parties, submits that the judgment be quashed and set aside and the matter be remanded to the District Court to be decided afresh, after following the procedure prescribed under the Guardians and Wards Act, 1890. In light of the consensus which has been arrived at between the learned counsel for the parties, the impugned judgment dated 12th December, 2024 is hereby quashed and set aside.

4. Civil Misc. Application No.1033 of 2024 is restored to the file of the District Judge to be decided afresh strictly in accordance with the provisions of the Guardians and Wards Act, 1890.

5. Needless to clarify that the Application is to be decided afresh uninfluenced by the observations in the judgment dated 12th December, 2024.

6. During the pendency of the present proceedings, the access of the minor child was given to the mother in the Family Court

Complex, Pune. It is agreed by consent that during the pendency of the custody Petition, the Appellant-Father will give access of the minor child to the Respondent-Mother on every 1st, 3rd and 5th Saturday between 11:00 a.m. to 2:00 p.m. in the children's Complex, Family Court, Pune. The said arrangement to continue till the hearing and final disposal of the custody Petition.

7. Considering that the matter pertains to the custody of the minor child, the Trial Court is requested to decide the same expeditiously.

8. Interim Application do not survive for consideration and same stands disposed of.

[Sharmila U. Deshmukh, J.]