

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2086 OF 2025

Salil Deshpande

.. Petitioner

Versus

Shalaka Deshpande & Anr.

.. Respondents

Mr. Rishi Bhuta a/w Megha Chandel, Ankita Bamboli, Advocates for the Petitioner.

Mr. Hrishikesh Mundargi a/w Swarali Joglekar i/b. Omkar Kanegaonkar, Advocates for Respondent No.1.

Ms. Gauri S. Rao, APP for the Respondent-State.

CORAM: RAVINDRA V. GHUGE &
GAUTAM A. ANKHAD, JJ.

DATE: AUGUST 25, 2025

P. C.

1. On 21st August 2025, we had passed the following order:-

“1. An excruciating situation is voiced by the learned Advocate for the Petitioner. If this Court does not pass orders urgently and if the Petitioner and his biological son are not able to reach USA by 28th August, 2025, the son’s admission in the USA school would be cancelled and his H4 Visa would

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expire. His son insists to live with the father and stay in USA.

2. On 13th June, 2025 we had passed the following order:

“1. The Petitioner is well aware of the whereabouts of his minor daughter. It is conceded that she is presently in the custody of the mother. The son is present in the Court and he is in the custody of the Petitioner.

2. The Superior Court of New Jersey, Chancery Division - Family Part Middlesex County, United States of America, has recorded the consent of the couple in an order passed on 13th December, 2024. We are informed that the said Court has also granted a divorce to the parties, but, in the absence of the Respondent mother since she returned to India, on 6th March, 2025 and did not participate in the Court proceedings.

3. The mother presently has the custody of the minor daughter, notwithstanding the above orders wherein it was ordered by the aforesaid Court that both the children should be with the Petitioner father in USA. The Respondent mother has initiated proceedings in India for seeking custody of the child.

4. Both the parties desire to take instructions as regards whether the mother can accompany the Petitioner along with the minor daughter and whether co-parenting in USA could fructify.

5. List this Petition on 18th June, 2025 in the supplementary board.”

3. It is, thus, apparent that on the one hand, the mother of the children desires benefit of the USA Court's order

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to the extent of receiving 30% of the assets and earnings of the Petitioner, and on the other hand, despite such decree by the US Court that the children would be with the father, she does not desire to obey that portion of the order. Surprisingly, though the divorce has been granted to the couple by the US Court, strategically, the former wife has filed a divorce proceeding in India bearing No.MJ-A-115/2025. The proceedings under the Protection of Women from Domestic Violence Act, 2005 has also been initiated. In view of the above, it is imperative that this matter is to be heard expeditiously.

4. The learned Advocate representing the biological mother submits that the lawyer is busy elsewhere and he cannot come to Mumbai for Court hearing till Monday.

5. A lawyer's inconvenience should not jeopardize the interest of the litigant. In view of the above, we are constrained to post this matter tomorrow on the Supplementary Board. If the Respondent seeks a pass over for some time during the course of the day, we would accommodate him in order to ensure that the matter is heard tomorrow. The pending MJ-A-115/2025 for divorce and the case bearing Application PWDVA No.415/2023 under the Domestic Violence Act, shall be adjourned until further orders of this Court."

2. The learned Advocate Neha Sule i/b. Mahadik and Associates submits that their Firm has taken discharge from the matter and Respondent No.1 will now be represented by Advocate Mr. Omkar Kanegaonkar. Mr. Kanegaonkar confirms his engagement and has instructed Mr. R. A.Mundargi to appear as a counsel for Respondent No.1. Mr. Kanegaonkar shall file the

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Vakilpatra either today or latest by tomorrow i.e. 26th August, 2025. Hence, the appearance of Advocate Neha Sule i/b. Mahadik and Associates, is discharged.

3. This is an unfortunate litigation. The education of 11 year old Neel Deshpande, is disrupted due to a matrimonial dispute of his parents. The Petitioner has filed this Petition seeking a Writ of *Habeas Corpus* for production of the minor children i.e. 11 years old Neel Deshpande and 14 year old daughter, Sai Deshpande. Divorce proceedings were filed before the Superior Court of New Jersey Chancery Division-Family Part Middlesex County, USA. The said Court permitted Respondent No.1 to travel with both children to India from 19th December, 2024 to 22nd January, 2025. Subsequently on 6th March 2025, a divorce decree was passed and the custody of the children was granted to the Petitioner.

4. It is the Petitioner's case that Respondent No.1 has violated the US Court's orders. The urgency expressed is that due the continued absence, the Petitioner's son is likely to lose admission in his current school at New Jersey. Secondly, the minor's H4 Visa will get adversely impacted due to continuous overstay in India beyond six months.

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5. This matter was heard by us on 21st and 22nd August, 2025. Respondent No.1 was directed to produce the original passport and visa of the minor son on the next date for the perusal of the Court.

6. Today when the matter was heard in the Court, **Respondent No.1 was present in Court**. She, however, did not bring her daughter to the Court. The matter was briefly heard by us and then kept back so that we could interact with the minor Son in chambers, to ascertain his preferences. To ensure that the minor did not feel uncomfortable, the advocates and the parties were directed to wait outside.

7. During our interaction, the minor appeared confident and answered all our questions with great clarity. He affirmatively stated that he wants to pursue his education in the current school at New Jersey. He stated that he will reside with the Petitioner in USA and wants to undertake education only in USA. He did not desire to stay in India.

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8. After interacting with the minor, we also heard the parties as well as their Advocates. We apprised them of the minor's wishes and strong desire. Several submissions were advanced by the Petitioner, Respondent No.1 and their advocates. We are not dealing with the same and will hear the parties on all issues on the next occasion. The limited purpose of today's hearing was to ensure the well-being of the minor son and that his education is not adversely impacted due to the matrimonial disputes of his parents. The foremost and primary need was to ensure that his H4 visas is not jeopardised and his admission in the school in USA is not cancelled.

9. Based on our interaction, until the next date of hearing in this case, the parties arrived at the following arrangement:-

(i) The current passport of Neel Deshpande is handed over in Court by Respondent No.1 to the Petitioner through her Advocate. Respondent No.1 has assured and undertaken to the Court to hand over the old passport as well as I-797 Visa certificate on 26th August, 2025 which is necessary for her son to travel to USA.

(ii) The Petitioner shall ensure that Neel's education will be continued, for the time being, at the New Jersey school.

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- (iii) Both the Petitioner as well as Respondent No.1 will permit the children in their respective custody, to freely communicate with the other parent as and when the children wishes to do so.
- (iv) Both the children shall be brought to Court by the respective parent on the next date of hearing.
- (v) Neither side will create any hurdles or precipitate the matters any further until the next date of hearing.
- (vi) The son Neel is permitted to be with his father, the Petitioner.

10. Mr. Mundargi, learned counsel for Respondent No.1 sought liberty to file a sur-rejoinder, if necessary. Such a sur-rejoinder shall be filed on or before 12th September, 2025. A copy of the same shall be served on the Petitioner.

11. We counseled the parties and expressed hope that they may be able to reconcile some of their differences as that would be in the best interest of the children. Both parties agreed to the listing of the matter on 6th October, 2025 for further consideration of all issues pending between the parties.

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12. We direct that the above arrangement shall not be resiled from, and all further contentions of the parties shall be heard on the next date. Until then, the ad-interim order passed by us earlier, shall continue to operate and bind the parties.

13. Liberty is granted to the parties to apply, in case the children are unable to appear in Court due to pressing school / exam commitments.

[GAUTAM A. ANKHAD, J.]

[RAVINDRA V. GHUGE, J.]

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