



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

950 WRIT PETITION NO.2455 OF 2026

Gulam Yazdani Gulam Samdani

VERSUS

Iram Afreen Abdul Samad

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Advocate for Petitioner : Mrs.Ansari Asfia Nuzhat

Advocate for Respondents : Mr. Moinpasha Shaikh Farid

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 08, 2026

PER COURT :-

1. Present writ petition takes exception to the order dated 19.12.2025 to the extent of Exhibit-34 and 40 passed in Petition No. D-10 of 2021 by Judge, Family Court, Nanded.

2. The petitioner is respondent in petition no.D-10 of 2021. It has been filed for custody of the minors in terms of provisions of section 25 of Guardian and Wards Act, 1890. The petitioner filed an application seeking permission for amendment in reply as well as application at Exhibit-19 to bring on record the fact that he has been shifted to Hyderabad City and serving with Eastern Software Systems Private Limited as Senior Test Lead. Family Court refused to entertain said

application on the ground that as per the directions of this Court preliminary issue is framed which reads thus :-

“(1)Whether the petitioner proves that at the time of filing this petition, respondent nos.2 and 3 are ordinary resident at Nanded.?”

3. Thus, shifting of petitioner from Pune to Nanded or Nanded to Hyderabad is irrelevant as the issue of jurisdiction will be decided on the basis of residence of the children as on the date of institution of the proceeding in terms of Guardian and Wards Act.

4. Perusal of aforesaid reasons shows that Family Court has applied analogy of section 9 of Guards and Wards Act, which prescribes that application in respect of Guardianship of the person of the minor should be filed before the District Court having jurisdiction in the place where minors ordinarily resides.

5. In the present case, petitioner has pleaded that he was residing at Pune at the time of institution of proceeding and even children were residing with him and, therefore, jurisdiction to decide the proceeding under section 9 would be with the Court at Pune.

6. In light of aforesaid averments in the reply filed by respondent, the Family Court will have to decide the place of residence of children as on the date of institution of proceeding. Subsequent change in petitioner's place of residence during pendency of proceeding would not change jurisdiction vested with the particular Court. The Family Court is therefore justified in observing that the amendment sought by petitioner is irrelevant for deciding preliminary issue, which deals with residence of minors as on the date of institution of proceeding. In result, writ petition stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

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