

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.12562 OF 2025
IN
FAMILY COURT APPEAL NO.85 OF 2025

Sachin Rampal Kalyani .. Applicant
In the matter between :
Sachin Rampal Kalyani .. Appellant
Versus
Shivani Sachin Kalyani .. Respondent

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Mr. Akshay Shah, for the Applicant/Appellant.

Mr. Sachin Gite, for the Respondent.

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CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 16th JANUARY, 2026

P.C:-

1. In continuation of the order dated 10.12.2025, the report of the Senior Police Inspector (**Sr. PI**) Khadak Police Station, Pune, dated 09.12.2025 is perused by us.

The documents along with the report include the statement of the minor girl recorded on 06.12.2025. From the statement of the girl, we do not find the accusations levelled by her about she being wrongly touched by a third person to be

substantiated. We direct the Registry to put the documents in a sealed cover. We make it very clear that we do not want to precipitate the said issue any further, as we find that the girl has retracted from her earlier statement and we are not sure whether she was acting under an influence or whether she was tutored. In any case, we find that the statement given by her now definitely will be inconvenient to the Appellant.

2. The Family Court Appeal filed by the husband has raised a challenge to the order dated 14.05.2025 passed by the Judge, Family Court.

The Family Court was deciding Petition No.D-64 of 2023, filed under Sections 7 and 25 of the Guardians and Wards Act, 1890, and as it's of custody of a child aged 5 years by invoking the provisions of the Act.

The Respondent-Wife was admittedly not represented before the Family Court and the learned Judge proceeded on the basis of the allegations levelled by the husband about the Respondent having developed a relationship with a person, but while deciding the issue of whether the Petitioner, as a father, is entitled to the permanent custody of the daughter, the Court answered the said issue in the negative. Paragraph 10 of the said order recorded that the girl child is 5 years old and is living with the mother and the Petitioner, in his evidence as well as Petition, has spoken about his employment in Dubai and therefore, admittedly, the Court recorded that he was not

in custody of the child and hence, the Court recorded that it would not be appropriate to pluck the child from the settled custody of the mother and shift her from Pune to Nashik, as such shifting would be detrimental to her interest. While allowing the Petition partly, the wife was directed to provide access of the daughter to the father on the 1st and 3rd Sunday of every month between 2 : 00 pm to 6 : 00 pm in a public place like garden or mall in the vicinity.

The Petition being disposed of, decree was directed to be drawn accordingly.

3. Being aggrieved by the said order, it is the father who has approached this Court by filing the present Appeal, as he is only granted access and not custody. In order to appreciate the contention that the mother is permitted to take care of the child as she is working and this situation will be in juxtaposition against the benefit in favour of the father, who according to the learned counsel, has many members of the family to take care of the child, which is not at all appreciated by the Family Court and in any case, when the wife has proceeded *ex-parte*, we deem it appropriate to remand Petition No.D-64 of 2023 before the Family Court at Nashik, to determine the legality/entitlement of the Petitioner, *qua* that of the Respondent, who is the mother and the child had lived in possession with the mother and the Court had deemed it appropriate not to disturb their bond. We expect the Family Court to take into consideration the interest of the child, it

being of paramount importance and based upon the settled principles for working out the best interest of the child, to hear the Appellant (Petitioner-Father) as well as the Respondent before determining the custody of the child, who is now 6 years old. We, therefore, quash and set aside the order dated 14.05.2025 and remand Petition No.D-64 of 2023 to the Family Court at Nashik for its fresh determination.

Needless to state that, responding to the Petition, the Respondent is entitled to file a written statement and the learned Judge is at liberty to re-frame the issues, if necessary and determine the same within a period of 6 months from today.

On remand, till the proceedings are decided, the mother shall continue to provide access of the daughter to the Petitioner as directed in the order dated 14.05.2025 and the said arrangement shall be continued till the custody proceedings are disposed of. The parties shall co-operate in the expeditious disposal of the proceedings.

4. In the wake of the aforesaid, the Appeal is disposed of. Pending Interim Applications are also disposed of.

(MANJUSHA DESHPANDE, J.) (BHARATI DANGRE, J.)