



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.591/2026

Gajanan V Swapna

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. PP. Sarise, Advocate for petitioner.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 30-01-2026.

Heard learned Counsel for the petitioner.

2. Petitioner's challenge is to order dated 16-10-2025 passed by the Ad-hoc District Judge-1, Kelapur, rejecting the application under Section 25 of the Guardian and Wards Act r/w Section 6 of the Hindu Minority and Guardianship Act, 1956 (for short, 'the said Act').

3. Learned Counsel for the petitioner submits that the petitioner is a natural father of the girl by name Sharvari and has prayed for custody of the minor girl by contending that the wife is not in a position to properly maintain the girl and that the wife is residing in Adilabad district in the State of Telangana and therefore there may be problem about education of the girl child. He submits that the impugned order is passed by the district Court by giving unnecessary importance to the allegations that the petitioner is residing with another lady. He submits that the allegations in this regard levelled by the wife are incorrect and baseless.

4. Perusal of the impugned order shows that the trial Court has given due consideration to the relevant aspects including the age of the minor girl (now aged about 06 years) and by considering the aspect of

welfare and well being of the minor girl, Court has rejected the application holding that the custody with the natural mother need not be disturbed. The Court has elaborately considered all the relevant aspects including the fact that the husband and wife are contesting several litigations against each other including a criminal case which is pending before the criminal Court. Further on the basis of documents on record including the FIR lodged by the respondent alleging performance of second marriage by the petitioner, the Court has arrived at inferences about the safety of the girl child. After considering the overall conduct of the petitioner/husband and giving due consideration to the position of law about Section 6 of the Act, the Court has recorded the inferences that it will not be safe and proper for the welfare and development of the minor ward namely Sharvari to handover the custody to the husband, when the natural mother is alive and taking care of the ward. By recording categorical inferences on the basis of material before it, the Court has rejected the application.

5. On perusal of the impugned order, I find the order passed by the District Court is well reasoned. The paramount consideration is the welfare of the girl child. There is nothing on record to show that the custody with the natural mother is dangerous for the welfare and well being of the minor child. It has to be noted that the application for custody was filed in the year 2022 when the girl child was aged only 04 years and having regard to the provisions of Section 6 of the Act, the Court has rejected the said application.

6. I find no perversity with the impugned order and no indulgence is warranted under Article 227 of the Constitution of India.

Writ petition is accordingly dismissed. No order as to costs.

(Prafulla S. Khubalkar, J.)