

**IN THE COURT OF JUDICIAL MAGISTRATE, FIRST CLASS,
67TH COURT, BORIVALI, MUMBAI.**

C. C. No.215/DV/2021

Mrs. Renee Aaryl D'sa	... Applicant
V/s.	
Mr. Aaryl Gerwin Arthur D'sa	... Respondent

**ORDER BELOW AN APPLICATION FILED BY THE RESPONDENT FOR
ACCESS OF MINOR SON MST. AVIOR**

The respondent has filed present application for access/visitation to minor son Mst. Avior who is 7 years old.

2. Heard both the sides at length. Perused the record. Applicant's father has claimed for access or visitation to his minor son Mst. Avior on Whatsapp Video call thrice a week at convenient time for 15-30 minutes and on every weekend from Saturday 6:00 pm to Sunday 6:00 pm and also provide an access on the birthday of minor son on 25th September i.e. on the previous day or next to day of the birthday i.e. 24th or 26th September, 2025.

3. The applicant has strongly resisted the application on the ground that respondent has filed an application for access after laps of three years in order to avoid the maintenance to the applicant and her son and also to harass the applicant. Respondent was away on the ship for almost for years and out of two years on vacation. The respondent was hardly stayed with the applicant and her child. Applicant has left the job to take care of the child. She further stated that respondent use to keep the applicant and child at her parent's house. The applicant was suffering from stress and anxiety since 2011 as she was working for

Morgan Stanley with long extended duty hours and this fact was known to the respondent prior to the marriage. On Saturday the child has to go for hobby class and practices for various activities and on Sunday he use to go to the church alongwith the applicant and thereafter attend Sunday school till 11:00 am. Likewise the respondent has not taken care of the applicant and her son and he totally deserted them without financial or physical support. Besides it the child would miss his curriculum courses, if access was given to the respondent. Accordingly, applicant requested to reject the application.

4. Given the above discussed circumstances, admittedly applicant and respondent are natural parents of Mst. Avior. At present he is in custody of the applicant(mother). No doubt applicant mother is taking care of Mst. Avior properly and worried about the future of the child. But fact remains about the feelings of the natural father regarding the child that he is the natural father too. Whatever allegations and counter allegations have been put up in their pleadings, they are subjected to the assessment of evidence on trial. Whatever marital discord they may have, it suffers to the child. Every child needs company of their parents for his well being and mental upbringing. Therefore, in dispute between couples, child need not to be suffered and deprived of care and support of both parents. Besides in such marital discord, it is always difficult to decide who is right and who is said to be wrong.

5. In so far question of loosing up hobby classes, practices for various activities or curriculum courses, the same can be done online from the place where the child is. Besides these reasons can't be deprived the respondent of the company of the child and express his

feelings towards him. Accordingly, I have no hesitation to allow the temporary custody and visitation right to the respondent as per order given below :-

ORDER

1. Application is allowed.
2. The respondent father is entitled to have an access his minor child Mst. Avior on Whatsapp video call thrice a week for 15 to 30 minutes at evening between 8:00 pm to 9:00 pm on weekends from the date of this order.
3. The respondent father is entitled to have temporary custody of Mst. Avior on every weekend i.e. from Saturday 6:00 pm to Sunday 6:00 pm.
4. Further the respondent father is also entitled to visit on occasion of the birthday to his son on 25th September of every year.
5. Copy of this order be given to the parties free of cost.

- sd/-

(A. D. GHUGE)

Judicial Magistrate (First Class),
67th Court, Borivali, Mumbai.

Date :- 09.09.2025
ppk