

IN THE COURT OF DISTRICT JUDGE -1, BHOKAR
DIST.NANDED.

Civil Misc. Appln. No.26/2023

MHND110006452023



Prakash Versus Gitanjali

ORDER BELOW EXH. 05

01] This is an application filed by applicant to restrain respondent from disturbing the custody of the child Pranjal till disposal of main application.

02] It is the contention of the applicant that the present petition has filed under section 6 of the Hindu Minority and Guardianship Act for custody of guardianship of minor son Namely Prajwal and daughter namely Pranjal. It is his further contention that the applicant and respondent are husband and wife and their marriage has been solemnized on 20-03-2006 at village Hatkarwadi Tq.Chakur Dist. Latur and marital relations in between them are still in existence as wife and husband. It is his further contention that after marriage the respondent has cohabited very well about some period with the applicant and thereafter respondent started quarrel with applicant on some petty reason and insists petitioner to reside separate from the parents of the petitioner. It is his further contention that due to bad habits of respondent and quarrelsome behave of respondent, the

petitioner left the house and resides separate at Bhokar and afterwards Nanded. It is his further contention that during the period of their marital relations, respondent begotten two issues namely Prajwal and Pranjal and now their age is 16 and 12 respectively. It is his further contention that due to bad habits of the respondent, the petitioner had kept the son Prajwal at Pune for education but respondent never feels the love and affection towards the child. The respondent utterly failed to maintain obligations towards matrimonial life. It is his contention that in the year 2021 one incident occurred for which respondent lodged complaint against one Datta Birkalwad alleging that he developed friendship in between them since 2017 and the said friendship converted into love and thereafter the friendship transferred into marital relationship, this fact came to know by the record as FIR No. 284/2021. It is his further contention that after lodging FIR 284/2021, again the respondent has developed relationship with one Balaji Shivaji Jadhav and thereafter the respondent and said Balaji had kidnapped the petitioner for removing hurdles and the said incident had caught hold red handed by the police and therefore, the respondent and her friend kept them behind bars and when respondent come back from jail, lodged false FIR against the petitioner. The aforesaid acts of the respondent are very much harmful to the life of minor children. However, respondent left the minor child Prajwal from the education institution on 01-10-2023 by saying that she is natural guardian-mother of said child. It is his contention that respondent playing with the life of the child and also playing with the future of child. It is his further contention that there is possibility of disturbing the daughter Pranjal from the custody of the petitioner. It is his further contention that minor child Pranjal is in

his custody as natural guardian as father and he has under fear that respondent can take the possession of minor Pranjal from his custody and therefore, he prayed to restrain the respondent from not to disturb custody of minor child Pranjal from his possession.

03] The petitioner has failed to file her say to the present application and therefore, the present petition is proceeded without her say.

04] Heard advocate for the petitioner. The respondent and her advocate are absent when called out repeatedly. Perused the application and documents produced on record. After perusal of record, it reveals that it is not in dispute that, the petitioner is the husband of respondent. It is also not in dispute that out of their wedlock, they have one daughter namely Pranjal and one son Prajwal and they both resides separately due to their matrimonial dispute. The record also reveals that minor son Prajwal is in the custody of respondent and minor daughter Pranjal is in the custody of petitioner i.e father. It is admitted by the petitioner that at present the minor daughter Pranjal is in his custody and she is taking education. To support his contention he has filed certificate by showing that minor Pranjal is residing with the petitioner at village Somthana Tq.Bhokar.

05] It appears from the record that the petitioner has filed the application under section 6 of Hindu Minority and Guardianship Act for custody of minor children. During pendency of the said application, the petitioner seeking direction regarding to restrain the respondent not to disturb the custody of minor child Pranjal from his

possession. After going through the record and proceedings since there are serious allegations made by the petitioner regarding the conduct of the respondent and her habits, therefore, the question whether the interest of minor would be looked into at the time of final decision of the application. At this stage, it cannot be inferred that who is natural guardian of minor child Pranjal, when application under section 6 of Guardian and Wards Act is pending for custody of minor child. In such circumstances, in order to avoid multiple proceedings against each other, it would not just and proper to restrain the respondent from disturbing the custody of child Pranjal from the possession of petitioner. For the above reasons, I, proceed to pass the following order:-

ORDER

- 1- Application Exh. 05 is hereby rejected.
- 2- Cost in cause.

Date: 09-07-2024

[Y.M.H. Kharadi]
Adhoc District Judge-1,Bhokar.

CERTIFICATE

I affirm that the contents of this P.D.F file order are same word to word, as per the original order.

Name of the Stenographer : P.S.Malve, Steno Grade-1

Court Name : District Judge-1 & ASJ Bhokar

Date : 09-07-2024

Order signed by the

Presiding Officer on : 09-07-2024

Order uploaded on : 10-07-2024