

ORDER BELOW EXH.15
IN CIVIL MISC. APPLICATION NO.180/2025
(Smt. Radhika Appa Randive vs. Kondiba Shripati Randive and
another)

1. Heard both the sides.
2. The original applicant Smt. Radhika Appa Randive filed Civil Misc. Application No.180/2025 seeking custody of her two minor daughters from respondents grandparents and minors uncle.
3. It is contended in the main application that husband of original applicant died on 16.11.2022. The applicant and her husband were residing separately from respondent Nos. 1 to 4 at village Sohale. It is further contended that, the applicant have three children from the said marriage i.e. one minor son aged 12 years and daughters aged 13 and 14 years respectively. It is contended that on 05.05.2025 respondent Nos.1 to 4 took applicant's daughter from village Sohale under pretext to take them for pilgrimage and since then they are not sending them to the original applicant/mother. It is contended that the minor daughters are missing their school and respondents are making minor daughters to do household work and keeping them at starvation.
4. The respondent Nos.1 to 4 filed present application Exh.15 as per the provision of Order 7 Rule 11 of Code of Civil Procedure. It is contended in the application that this Court has no jurisdiction to decide the Civil Misc. Application filed for custody of the minor daughters. It is contended in the application Exh.15 that both minor

daughters are studying at Little Angle Public School, Kesarwala, Raipur, Deharadhoon, Uttarakhand and are staying permanently at Panash Valley, near Chalgaon Pacific Golf Sahastradhara Road, Deharadhoon. The applicant placed on record photocopy of achievement record and fee receipt of minor girls. It is, prayed for rejection of the Civil Misc. Application on the ground of jurisdiction.

5. Per contra vide say filed at Exh.17 original applicant/mother filed say opposing the application. It is contended that the respondents are permanent resident of village Sohale, Taluka Mohol. The original applicant and respondents both have house and agricultural field, movable and immovable property at village Sohale. It is contended that both the minor girls were studying at Zilla Parishad Primary School at Sohale. The respondents after taking minor girls took their admission at other school. It is contended that this court has jurisdiction to decide the present application. The application Exh.15 is filed for delaying the main matter. Hence, prayed for rejection of the application Exh.15.

6. The Ld. Advocate for the applicant/respondent Nos.1 to 4 submitted that as per the provisions Section 9 of the Guardians and Wards Act 1890, if the application is with respect to the guardianship of minor it shall be made to the District Court having jurisdiction in the case where minor ordinarily resides. He submitted that both the minor girls are studying at Little Angle Public School, Deharadhoon, so this Court has no jurisdiction. He submitted that Civil Misc. Application be rejected on the ground of jurisdiction.

7. The Ld. Advocate for the original applicant/ mother opposed the application Exh.15 pointing out bonafide certificates of the minor girls issued by the Headmaster, Zilla Parishad School, Sohale and submitted that both the minor girls were studying at Sohale. He submitted that the minor girls were residents of village Sohale. The respondent Nos.1 to 4 had recently taken admission of minor girls at that school. He submitted that this court has jurisdiction to decide the application for getting custody as per the provision of Guardians and Wards Act.

8. Admittedly, the applicant/mother and respondents/ grandparents and uncle are residing at village Sohale, Taluka Mohol, District Solapur. The bonafide certificates placed on record by the mother of the minor girl shows that the minor girls took education upto to 6th and 7th standard respectively at zilla Parishad School, situated at Mohol. It is not disputed that the respondent Nos.1 to 4 have taken admission of both minor girls at school at Deharadhoon recently.

9. Perusal of the provisions of Section 9 of the Guardian and Wards Act, it says that the application with respect to the guardianship of the person of the minor shall be made to the District Court where the minors ordinarily resides. It is admitted that initially minor girls were residing with their mother at village Sohale, Taluka Mohol, District Solapur and they had admission at Zilla Parishad School at village Sohale, so the facts reveals that the minor girls were ordinarily residing at village Sohale. Merely if the admission of minor girl is obtained in a

school at Deharadhoon recently it cannot be said that they ordinarily reside there. Further the application Exh.15 is titled under the provision of Order 7 Rule 11 of Code of Civil Procedure. The provision of Order 7 Rule 11 of C.P.C. reads as under:-

“11. Rejection of plaint.-

The plaint shall be rejected in the following cases :-

(a) where it does not disclose a cause of action ;

(b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to so correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is property valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9:]]

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or

supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extent such time would cause grave injustice to the plaintiff.]”

10. It is not the case of the applicant/respondent Nos.1 to 4 that original applicant failed to comply as per the provisions of Order 7 Rule 11 of C.P.C. The application Exh.15 filed is misconceived. There is no substance in the submission made by the Ld. Advocate for the applicant/respondent Nos.1 to 4. The pleadings goes to show that the minor girls were residing at village Sohale, Taluka Mohol, District Solapur. So, this Court has jurisdiction to decide the Civil Misc. Application filed by the original applicant/mother. Hence, I proceed to pass following order.

ORDER

Application Exh.15 is rejected and disposed off.

Date : 27/04/2026

(R. J. Katariya)
District Judge-1,
Solapur.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/Order.

- (a) Name of the Stenographer : S.R.Kore, Stenographer G-1.
- (b) Court : R. J. Katariya,
District Judge – 1 & Addl.
Sessions Judge, Solapur.
- (c) Order signed by P.O. on : 27/04/2026
- (d) Order uploaded on : 27/04/2026