



MJC No.155/2025
Dipali Aniket Jagtap ..Vs.. Aniket Prakash Jagtap
Order Below Exh-09
Dated 19-06-2026.

The present application has been filed by the applicant in the pending review proceedings seeking a direction to maintain status quo with regard to the custody of the minor child, till the final disposal of the review application. The non-applicant has filed his reply (Exh.11) opposing the application.

2. The learned Counsel for the applicant submitted that the applicant has preferred the present review application challenging the order dated 23.07.2025 passed in Civil Miscellaneous Application No.140/2022 and the same is pending for adjudication. It is contended that the minor child is presently residing with the applicant and has remained in her care and custody since birth. It is further submitted that the non-applicant is attempting to disturb the existing arrangement and is making efforts to forcibly take away the custody of the child, including attempts to pick him up directly from his school. According to the applicant, such acts have created fear and insecurity in the mind of the child and are adversely affecting his education and well-being. It is argued that any change in the custody or routine of the child during the pendency of the review proceedings would cause irreparable loss, mental stress, academic disruption and instability to the child. Invoking the principle that the welfare of the child is of paramount consideration, the applicant has prayed that status quo with respect to the custody of the

minor child be maintained till the disposal of the review application.

3. As against this, the learned Counsel for the non-applicant opposed the application and submitted that the order dated 23.07.2025 passed in Civil Miscellaneous Application No.140/2022 is legal, proper and does not warrant any interference. It is contended that the minor child is residing with the non-applicant-father and that the applicant, along with her family members, is attempting to forcibly take custody of the child. According to the non-applicant, the present application is false, baseless and has been filed only with an intention to harass him and his family members. She, therefore, prayed for rejection of the application.

4. The points for determination and my findings thereon are as under:

	<u>POINTS</u>		<u>FINDINGS</u>
1.	Whether the applicant has made out a prima facie case for grant of status-quo regarding custody of the minor child ?	:	No
2.	Is the applicant entitled for the relief sought?		No
3.	What order ?	:	As per final Order.

: REASONS :

AS TO POINTS NO. 1 AND 2 :

5. The facts on these points is common and interconnected. Therefore, they are being taken together for consideration. Heard the learned counsel for the applicant. Perused the application, written

submissions, and the material placed on record.

6. I have considered the rival submissions and perused the material available on record. At the outset, it is necessary to note that the present proceedings arise out of a review application challenging the order dated 23.07.2025 passed in Civil Miscellaneous Application No.140/2022. A perusal of the said order reveals that the applicant-mother had sought custody of the minor child in the main proceedings. The specific case of the applicant therein was that the child was in the custody of the non-applicant-father and that she was entitled to be granted custody of the child. After considering the material on record, this Court rejected the said prayer. The correctness and legality of that order is the subject matter of the present review application.

7. The relief sought in the present application is for maintenance of status quo regarding custody of the minor child during the pendency of the review proceedings. However, before considering such prayer, it is necessary to ascertain the legal basis on which the applicant presently claims custody of the child. Both parties have made rival claims regarding the present custody of the minor child. The applicant contends that the child is presently residing with her, whereas the non-applicant asserts that the child is residing with him.

8. During the course of hearing, the applicant produced the minor child before the Court and sought to demonstrate that the child is presently in her custody. However, when a specific query was put to the learned Counsel for the applicant as to how such custody was obtained despite the order under review and in the absence of any judicial

direction granting custody in her favour, it was submitted that the applicant secured custody of the child with the assistance of the police authorities. More importantly, no order of any competent Court directing transfer of custody of the child in favour of the applicant has been brought to the notice of this Court. Thus, the custody presently claimed by the applicant is admittedly not traceable to any judicial order. On the contrary, the order sought to be reviewed had rejected the applicant's prayer for custody. Therefore, as on date, there exists no subsisting order conferring custody of the child upon the applicant.

9. In the considered opinion of this Court, when the applicant herself had approached the Court in the main proceedings seeking custody of the child and such prayer came to be rejected, she cannot seek, by way of an interim application in the review proceedings, protection of a custody arrangement which is not founded upon any judicial order. Unless the review application is finally decided and the order dated 23.07.2025 is modified, recalled or set aside, the applicant cannot claim any legal right to custody contrary to the findings recorded in the order under review. Granting the prayer for maintenance of status quo in the facts of the present case would virtually amount to granting indirect recognition and protection to the applicant's claim of custody, notwithstanding the fact that her substantive prayer for custody has already been rejected. Such a course would, in effect, result in granting the very relief which was denied in the main proceedings. It is a settled principle that an interim order cannot be passed so as to grant the final relief itself or to render the adjudication of the main proceedings redundant.

10. The applicant has also failed to establish any legal basis for seeking protection of the custody presently claimed by her. In the absence of any judicial order placing the child in her custody, this Court cannot direct maintenance of status quo merely on the basis of an asserted possession of custody. To do so would amount to conferring legitimacy upon a state of affairs which is not supported by any order of law. The conduct of the applicant also assumes significance. Having unsuccessfully sought custody in the substantive proceedings and having challenged that order by filing the present review application, the applicant now seeks an interim order protecting a custody arrangement which is admittedly not backed by any judicial determination. Such an attempt appears to be aimed at securing, through interlocutory proceedings, a relief substantially similar to the one which was refused in the main proceedings. The Court cannot permit a party to achieve indirectly what it could not obtain directly.

11. The welfare of the child is undoubtedly the paramount consideration in matters relating to custody. However, the present application is required to be examined within the limited scope of the review proceedings and on the basis of the legal rights presently established before the Court. At this stage, when the applicant has failed to demonstrate any lawful entitlement to the custody presently claimed by her and when the issue of custody itself is yet to be adjudicated in the review proceedings, no case is made out for grant of the relief sought.

12. As a sequel to the above discussion, the applicant has failed to establish a prima-facie case for grant of interim relief. The balance of

convenience is not in her favour and the relief sought would virtually amount to granting the substantive relief involved in the review application itself. Consequently, the application deserves to be rejected. Hence, points No.1 and 2 are answered in the negative.

AS TO POINT NO. 3 :-

13. In view of my findings to point No.1 and 2, the application deserves to be rejected and is accordingly rejected. In the result, in answer to point No.3, I proceed to pass the following order:-

: ORDER :

- 1] The application seeking maintenance of status-quo in respect of the custody of minor child during the pendency of the review application, stands rejected.
- 2] No order as to costs.

Dt/- 19-06-2026.

[H. B. Gaikwad]
Principal District Judge,
Wardha.