

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 62 of 2025**

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/FIRST APPEAL NO. 62 of 2025

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SUJIT KUMAR BANSILAL DAMANIYA

Versus

TINA SUJIT KUMAR DAMANIYA

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Appearance:

MR. SONAL J PANCHAL(14408) for the Appellant(s) No. 1

MS AMI N BHATT(3372) for the Appellant(s) No. 1

REFUSED SERVED (N)(10) for the Defendant(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 09/05/2025

ORAL ORDER

1. Heard learned advocate Ms. Ami Bhatt on record for the appellant No.1. Rule issued by this Court upon the respondent has been duly served as reported by learned advocate for the appellant.

2. At the outset, learned advocate submitted that on trivial issue the respondent-wife has left her matrimonial house since 9th August 2022 and has gone away with the minor children without the consent of the present appellant who is the father. She has further submitted that the expenses

towards the education and maintenance of their children is till date borne by the father. During the proceedings before the Trial Court, the attempts were made for mediation whereby the children had appeared on few occasions and were found comfortable in presence of the appellant. Despite the aforesaid facts the learned judge has refused to entertain the application preferred by the appellant under Section 12 read with Section 12 of the Guardians and Wards Act. She has further submitted that the appellant is agreeable for mediation, however, it is the respondent who is not participating in the proceedings. She has further submitted that looking to the ensuing summer vacation, at this stage, if the limited prayer with regard to visitation right be considered, the appropriate directions may be issued to the respondent to appear before the learned Mediator on the next date of hearing.

3. Considering the aforesaid submissions and noticing the impugned judgment and order passed by the learned judge, prima facie this Court finds that the appellant being the father is equally concerned about the welfare of the child, more particularly the fact that the children have stopped

attending the school for no reason. The period of separation as can be gathered from the facts is for more than 2 ½ years, however, looking to the fact that the appellant is keen to reunite with the respondent along with the children. This Court finds that the issues can be resolved. Hence, the respondent is directed to appear before the learned Mediator on the date which may be fixed for exploring the possibility of resolving the issues to the Mediation.

4. Let the matter be placed for the Mediation before the Gujarat High Court, Mediation Center. In the meanwhile, the appellant is permitted to visit the children every Sunday, till the next date of hearing.

5. Let the copy of order be served upon the respondent. The matter may be placed for further consideration after the report is submitted by learned Mediator, on 23rd June, 2025.

MARY VADAKKAN

(NISHA M. THAKORE,J)