

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 427 of 2026****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2026****In R/FIRST APPEAL NO. 427 of 2026**

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NILAM D/O OF DHARMRAJSINH AND WIFE OF RAMESHWAR
GIRJASHANKAR PATHAK

Versus**RAMESHWAR GIRJASHANKAR PATHAK**

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Appearance:

MS MARIYA M DALAL(3957) for the Appellant(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN**and****HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 16/02/2026****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)****Order in First Appeal**

1. Ms.Mariya Dalal, learned Advocate submitted that the appellant is aggrieved by the order that is passed in connection with the application filed by the respondent under section 10 of the Guardians and Wards Act, 1890 (hereinafter referred to as "the Act of 1890") seeking guardianship and custody of the minor son Shivaay. It is vehemently submitted that the alleged marriage between the appellant and the respondent took place in the year 2018. The appellant and the respondent started residing together and on 11.12.2019, the son-Shivaay was born. It is submitted that when the son was three months old, the respondent deserted the appellant and the son on the ground that he was already married and was having three children, which fact, was not disclosed. It is also emerging from the evidence that the respondent does not

want to leave the previous wife and children; however, the present application is filed only with a view to harass the appellant who, after being deserted, has entered into second marriage.

2. It is submitted that at no point of time, the respondent has made attempts to meet the child and all of a sudden, after almost four years, the application under the provision of section 10 of the Act of 1890 is filed seeking guardianship and custody. It is submitted that it is not the case of the respondent that the child is not being taken care of. Infact, the learned Judge has categorically observed that the respondent could not prove by any credible evidence that the appellant is unfit to have custody of the child or that the welfare of the child is in any manner in danger. It is submitted that the respondent also admits that he deserted the child when he was three months old. The respondent has left no stone unturned to harass the appellant an the application seeking guardianship is one of it.

3. It is submitted that when the respondent was allowed visitation right one such meeting took place in the Family Court when, he created ruckus and the impact was severe and the child had to be hospitalized.

4. Considered the submissions. Issue notice to the respondent returnable on 23.03.2026.

Order in Civil Application

Heard Ms. Mariya M Dalal, learned Advocate appearing for the applicant.

Issue notice to the respondent returnable on 23.03.2026. Ad-interim relief is granted in terms of paragraph 7B till the next date of hearing.

(SANGEETA K. VISHEN,J)

(NISHA M. THAKORE,J)

SINDHU NAIR