

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2968 OF 2022

Bharat Prataprao Chavan Patil

.....Applicant/Appellant

Vs.

Richa Bharat Chavan

Patil(Maiden Name – Richa Harigopal Gupta)Respondent

WITH

INTERIM APPLICATION NO.10127 OF 2025

IN

FAMILY COURT APPEAL NO.33 OF 2022

Bharat Prataprao Chavan Patil

.....Applicant/Appellant

Vs.

Richa Bharat Chavan

Patil(Maiden Name – Richa Harigopal Gupta)Respondent

Mr. Anand Kumar i/b Mrs. Daulat A. Jehangir, for the Applicant / Appellant.

Mr. D. P. Singh, for Respondent Nos.2 & 3-Union of India.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATE : 20th AUGUST 2025.

P.C.:-

1. At the outset, the Appellant seeks leave to amend the petition and the Interim Application to add the Ministry of Home Affairs and the Ministry of External Affairs as Respondent Nos.2 and 3. Leave is granted. Amendment to be carried out forthwith.

2. The Appellant has assailed Judgment and Order dated 10th November 2021 passed by the Principal Judge, Family Court, at Pune in Civil Miscellaneous Application No.85 of 2018 under Section 26 of the Hindu Marriage Act of 1955. By way of the impugned judgment the petition filed by the Appellant herein seeking permanent custody of his minor son was dismissed by the Family Court.

3. There is an Interim Application made by the Appellant seeking visitation rights in respect of his son Rishabh who is presently in the custody of the Respondent. According to the Appellant, the Respondent has taken their son Rishabh to Canada and is residing there with her siblings. She has avoided to appear before this Court despite notice being served on her. By order dated 7th February 2025, the Appellant was permitted to issue notice to the Respondent along with a copy of the order of this Court. It was also recorded that if the Respondent fails to appear personally or through V.C. before the Court, there shall be no alternative to pass appropriate orders to be enforced if necessary through the Indian Consulate. The V.C. link was provided in the said order.

4. By order dated 21st February 2025, another opportunity was

granted to her to appear before the Court. On 7th March 2025, notice along with the Court orders was directed to be served on the Respondent through the Indian Consulate by taking recourse to the procedure of service of Court Summons under the Canadian law. Humdast was granted to be forwarded to the appropriate officer of the Ministry of External Affairs, Government of India to be transmitted to the Indian Consulate at Toronto, Canada and the Ministry was required to forward a report of service to the Registrar (Judicial-I). It was also made clear that despite this attempt if the Respondent failed to appear there would be no alternative but to take coercive action against her.

5. By order dated 22nd April 2025, this Court recorded that the Respondent does not appear to be interested in the proceedings as she failed to appear despite service. The Appellant has filed an Affidavit of Service dated 27th June 2025. Despite receiving notice of the present proceeding by all means of communication permissible in law, the Respondent has not bothered to appear. Hence, we permitted the Appellant today to implead the Union of India as Respondent Nos.2 and 3.

6. From all the previous orders, we are satisfied that the Respondent has deliberately avoided to appear before this Court and neither has she bothered to permit the Appellant to have access to their son. In these circumstances and looking to the conduct of the Respondent, we deem it appropriate to direct notice to be served on the Respondent No.1 through the Respondent Nos.2 and 3 via the Indian Consulate in Canada at the address of the Respondent given in the Application. Accordingly, re-issue notice to the Respondent No.1 as mentioned above. A copy of the present order be sent along with the notice.

7. The Respondent No.1 is put to notice that if she fails to appear before this Court on the next date, we shall be constrained to direct the Respondent No.2 to issue a Look Out Circular for the Respondent No.1 and also direct the child to be produced before this Court on a given date.

8. Stand over to **10th September 2025.**

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)