

ITEM NO.301

COURT NO.11

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).8525/2010

(From the judgement and order dated 03/02/2010 in
887/2009 of The HIGH COURT OF BOMBAY AT AURANGABAD)

FA No.

VISHNU & ORS.

Petitioner(s)

VERSUS

JAYA

Respondent(s)

(With prayer for interim relief)

Date: 19/07/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE T.S. THAKUR

For Petitioner(s) Mr. Sudhanshu S.Choudhari,Adv. (Not Present)

For Respondent(s) Mr. B.S. Rajesh Agrajit, Adv
 Ms. Jyoti Rana, Adv.
 For Mr. Sanjai Kumar Pathak,Adv.

UPON hearing counsel the Court made the following
O R D E R

On July 8, 2011, both the petitioner (Vishnu) and the respondent (Jaya) who, along with their respective counsel, were personally present in Court were directed to appear before the Mediation and Conciliation Centre, Delhi High Court, on the following day, i.e. July 9, 2011.

The respondent, who, on that date had the custody of the children, was further directed to take the children along with her to the Mediation Centre.

Today, counsel for the respondent is present.

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But the petitioner (Vishnu) and his counsel are not present.

A report dated July 11, 2011, has been received from the Delhi High Court Mediation and Conciliation Centre. From the report it appears that on the date fixed by the Court, the respondent appeared at the Centre along with the two children but the petitioner

(Vishnu) did not turn up. On being contacted on telephone, his counsel informed the Mediators that the petitioner had already returned to Mumbai and joined his duty. Later on, he further informed the Mediators that his client would not be able to get any leave to come to Delhi and that his client could not even give any tentative date when he might be able to come to attend the mediation proceedings.

In the absence of the petitioner, no mediation could be held. But the Mediators interacted with the two children both in the presence of their mother and in her absence. According to the report, both the children appeared quite clear in their mind and in the given circumstances, they would prefer to stay with their mother.

From the petitioner's attitude, it appears to us that he is not interested in trying to resolve the dispute through mediation.

By our order dated December 7, 2010, we had altered our earlier order of April 20, 2010, and had

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given the children in the custody of their mother, respondent. Having regard to the fact that the petitioner has neither attended the mediation proceedings nor his counsel is present in court today, we direct that the children shall continue to remain in the custody of their mother, till further orders by the Court.

Having regard to the best interests of the children, we further direct the respondent to make arrangements to admit them in a school in Bhopal, where they may be able to pursue their studies.

Today, no one appears to press this petition on behalf of the petitioner.

Put up on September 15, 2011, at 3:45 P.M.

(Neetu Khajuria)
Sr.P.A.

(S.S.R. Krishna)
Court Master