

2015 (0) AIJEL-HC 233075

GUJARAT HIGH COURT

Hon'ble Judges:S.G.Shah, J.

Abhishek Madanlal Binaykia Versus Swati Abhishek Binaykia

SPECIAL CIVIL APPLICATION No. 14299 of 2015 ; *J.Date :- SEPTEMBER 11, 2015

- GUARDIANS AND WARDS ACT, 1890
- HINDU MINORITY AND GUARDIANSHIP ACT, 1956 Section - 6

GUARDIANS AND WARDS ACT, 1890 - HINDU MINORITY AND GUARDIANSHIP ACT, 1956 - S.6 - NATURAL GUARDIANS OF A HINDU MINOR - PETITION DISPOSED OF.

Cases Referred to :

1. Kumar V.Jahgirdar V/s. Chethana Ramatheertha, AIR 2004 SC 1525
2. Rosy Jacob V/s. Jacob Chakramakkal, AIR 1973 SC 2090

Equivalent Citation(s):

2015 JX(Guj) 754 : 2015 AIJEL_HC 233075

JUDGMENT :-

1 Pursuant to notice dated 01.09.2015 by this Court, which is served upon the respondent by email, learned senior counsel Mr. Percy Kavina with learned advocate Mr. Bhas H. Mankad appeared before the Court for the respondent. Learned advocate Mr. Mankad undertakes to file Vakalatnama since he has yet not received the same because respondent is residing in United States of America (USA). Learned advocate Mr. Bhas Mankad has filed a letter contending that he has received an email from the respondent to engage him as an advocate confirming that she is in process to courier the duly signed Vakalatnama. However, since Vakalatnama may not reach in the hands of the learned advocate till date, he has filed this undertaking with copy of email as well as scanned copy of Vakalatnama signed by the respondent confirming that he will file Vakalatnama as soon as he receives it from the respondent. Permission is granted as prayed for. Registry shall accept the same even after disposal of this matter.

2 It is not disputed fact that petitioner is original plaintiff in Family Suit No. 1546 of 2015 before the Family Court, Ahmedabad and respondent is wife, wherein the issue is regarding custody of their minor son namely Vihaan. It is also undisputed fact that initially both the parties were residing in USA but recently petitioner - husband has to come back to India because of ill - health of his father and at that time probably he has left USA with minor son without express consent of the respondent to bring minor to India. Therefore, they had hot correspondence about the way in which petitioner has rushed to India with minor and because of that, petitioner apprehends that respondent - wife may initiate some proceedings before the

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Court in USA to get custody of the minor since minor is born in USA and, therefore, he holds US citizenship, though the marriage of the parties was solemnized in India and because they both are Hindu, the Hindu laws applies to them including The Guardians and Wards Act, 1890 ('the G & W Act' for short) and The Hindu Minority and Guardianship Act, 1956 ('the HMG Act' for short). Therefore, when petitioner is a natural guardian of his son being his father as provided under Section 6 of the HMG Act, considering the conflict of jurisdiction between American Court and Indian Court, the petitioner has immediately initiated such proceedings in the form of Family Suit No. 1546 of 2015 to ascertain the jurisdiction of Indian Courts and to restrain the respondent from taking away the custody of the minor, because petitioner apprehends that if respondent initiate any proceedings before the Court in America, the American Court may pass some order and, thereby, jurisdiction of Indian Court may come to an end, more particularly, when he is a natural guardian of the minor. At this stage, provisions of Section 6 of the Act needs to be reproduced here which reads as under:

"6. Natural guardians of a Hindu minor. - The natural guardian of a Hindu minor, in respect of the minor's person as well as in respect of the minor's property (excluding his or her undivided interest in joint family property), are -

(a) in the case of a boy or an unmarried girl - the father, and after him, the mother: provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother.

xxx xxx xxx xxx

xxx xxx xxx xxx"

3 However, when Family Court has not granted ex-parte ad interim injunction as prayed for by the petitioner, petitioner has preferred this Special Civil Application for immediate interim relief as prayed for in para 9 of his petition, which reads as under:

"9. On the aforesaid and other grounds which may be urged at the time of hearing the petitioner prays as under:

A) The Honourable Court be pleased to issue a writ of certiorari with a view to quash and set aside the order of issuance of notice simplicitor dated 28.08.2015, passed by the Honourable Family Court at Ahmedabad in Family Suit No. 1546 of 2015.

B) The Honourable Court be pleased to declare that the petitioner being the natural guardian of minor Vihaan Binaykia, is entitled to, and has the legal right, power and authority, to retain the custody of the minor Vihaan Binaykia and that the respondent is not entitled to remove minor Vihaan Binaykia from the custody of the petitioner.

C) The Honourable Court be pleased to grant a permanent injunction restraining the respondent from interfering with, or removing minor Vihaan Binaykia from, the custody of the petitioner.

D) The Honourable Court be pleased to grant a mandatory injunction that the respondent do sign the necessary applications/papers/documents for renewal of passport of minor Vihaan Binaykia and for submitting and processing the application

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of minor Vihaan Binaykia for acquiring OCI Card (Overseas Citizen of India Card) to the competent authorities.

E) Pending the admission, hearing and final disposal of the petition, the Honourable Court be pleased to -

(i) Stay the implementation, execution and operation of the impugned order dated 28.08.2015, passed by the Honourable Family Court at Ahmedabad in Family Suit No. 1546 of 2015.

(ii) Grant a temporary injunction restraining the respondent from interfering with, or removing minor Vihaan Binaykia from the custody of the petitioner.

(iii) Grant a mandatory injunction that the respondent do sign the necessary applications/papers/documents for renewal of the passport of the minor Vihaan Binaykia and for submitting and processing the application of minor Vihaan Binaykia for acquiring OCI Card (Overseas Citizen of India Card) to the competent authorities.

4 Generally Court may not entertain such petition, when it is filed at interlocutory stage, however, considering the facts and circumstances narrated in the petition and annexures with it, as well as, prayers which are reproduced herein above, when it is clear and obvious that the issue before the Court is not merely for guardianship of minor child but regarding custody of minor child amongst parents themselves out of whom, mother is at present in USA, irrespective of feelings of the parties but without disclosing any such reason, this Court has while directing the petitioner to serve the notice via email passed following operative order:

"Since issue is pertaining to the custody of minor child, the status - quo of the custody as on date shall be maintained by both the parties. However, petitioner is directed to keep the child present before this Court on the next date of hearing. List on 9.9.2015"

5 It would be appropriate to record that when there is an issue regarding custody of a minor and somebody is praying to restrain a mother from taking steps for custody of the minor, the primary duty of the Court is to see that whether minor is in proper condition or not and, therefore, to avoid any overact even by the father by hiding or handing over the possession to someone, an order of status - quo with a direction to keep child present before the Court was passed, to ascertain that whether child is in good condition or not with a direction to serve the respondent by email because otherwise also, correspondence between husband and wife was through email in their day to day life.

6 Before deciding the issue on hand, it would be appropriate to recollect the submissions by both the sides wherein petitioner has nothing to add more than their pleadings and their preliminary submission before this Court but learned senior counsel for the respondent has vehemently argued against the nature of such litigation, prayer and even first order dated 03.09.2015 by this Court regarding status quo to be maintained, so far as custody of the child is concerned. However, it is clear and obvious that any and every order is always to be read with facts and circumstances and evidence in that case, wherein such order is passed and, therefore, even if in a given case, the Court has not entertained such petition at interlocutory stage, it cannot be said that it would be rule of thumb in all the matters irrespective of facts and circumstances and evidence on record and thereby the Court should never intervene at such interlocutory stage.

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7 The other submissions by learned senior counsel for the respondent can be summarized as under:

(1) The petitioner herein has misguided the Court and he is telling lie on oath before the Court and though respondent has got documentary evidence to prove it and to show that pleadings of the petitioner, both before Family Court and before this Court to the effect that he has to initiate such proceedings because of apprehension of action by the wife is not correct, since he has already decided to run away from USA with minor child, so as to deprive of the wife of her rights and to hurt her feelings and for the purpose, he was not only planning to rush to India but disclosed and conveyed such intention to others through email in the month of July, 2015 itself.

(2) The petitioner has rushed to India under the guise of serious illness and sickness of his father and though respondent is happy to know that his father has now recovered, it seems that it was only on pretext to run away from USA and to come to India with his minor son and that such fact can be proved by email correspondence between petitioner and his father. Thereby this is a pre-planned act of the petitioner after discussing with others and design to disturb the life of the respondent.

(3) To prove the falacy of the petitioner's statement as aforesaid, petitioner may be permitted to be cross - examined before this Court, wherein he would not be in a position to support his own pleadings that he has to rush all of a sudden and to deny that he had no pre-plan to run away from USA.

(4) The petitioner has hijacked the jurisdiction of Indian Courts since considering the abode of entire family - petitioner, respondent and their son as USA, the real jurisdiction of every such dispute is only in USA, where petitioner and respondent were lastly residing together and thereby natural jurisdiction of such dispute is certainly Courts in California, USA and not in Gujarat, India. Therefore, petitioner has misused the equitable jurisdiction of this Court.

(5) Petitioner has committed grave abuse of legal process.

(6) Petitioner has left the wife to live like a chattel because wife is not earning at present and it is difficult for a single woman to live in USA without any earnings, moreover the apartment where couple was living, was on lease and license agreement and petitioner - husband has terminated such agreement, w.e.f. 30.09.2015 and, therefore, after 30.09.2015, it would be difficult for the wife to even stay in USA.

(7) Petitioner has also stopped credit card facility of the wife. Though husband has offered to provide air tickets to come to India, it is submitted that wife is not begging for anything and that even after reaching to India, she may not be in a position to live with the petitioner at the house of her in-laws and, therefore, it would be difficult for her to rush to India without confirming her comfortable stay etc. and that since there is no means of support available to her for such period, it would be difficult for her both to maintain herself with dignity and to spend for such litigation.

(8) Petitioner has, in fact, disclosed in his email dated 25.06.2015 that he is earning \$ 2,00,000/- per annum and, therefore, he does not want the wife to do job, where she

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may earn \$ 50,000/- per annum. Therefore, it is submitted that petitioner must be directed to deposit \$ 32,000/- towards maintenance and expenditure.

8 As against that learned senior counsel Mr. Nanavaty for the petitioner - husband has submitted as under:

(1) Though minor is born in USA and having citizenship, as long as he is minor, he has to remain in custody of guardian and that when both the parents are Indian citizens naturally he has to stay with such guardian and when natural guardian wants to stay in India, the natural guardian has all the right to keep the minor with him in India.

(2) So far as respondent is concerned, in answer to the submissions by the learned senior counsel for the respondent that at any cost, petitioner wants the wife to visit India though she is green card holder and, therefore, she cannot be compelled to come to India, it is submitted that green card only confers certain rights to the person in USA but it is not a US citizenship and that, in any case, even today respondent is having Indian citizenship. Moreover, father is a natural guardian and when father and child are in India, the Indian Court has certainly got jurisdiction over the issues of guardianship etc. and, therefore, it cannot be said that Court in USA only has jurisdiction. His only anxiety and apprehension is to the effect that if Courts in India do not initiate appropriate proceedings in time, then there may be litigation against him and minor before USA Court and in that case, he has to rush to USA with minor, which according to him is against welfare of the minor.

(3) Husband agrees to extend all the facilities to the respondent- wife so as to travel to India and to maintain herself peacefully and even to stay independently in India, but wife cannot compel husband to maintain her in USA. She has to cohabit with husband wherever he resides. At present husband has left the job at USA to live with his parents and, therefore, though husband has agreed to facilitate wife, he is not earning at present. The husband is ready and willing to co-operate in all the process only to see that his child may not get disturbed and ensure that he gets everything best in his life.

(4) So far as stopping of credit card and other financial facilities are concerned, it is contended that, in fact, petitioner has kept balance of \$ 1200/- in account and that, debit card of such account is with the respondent - wife and thereby she is able to get the money on her own and it is further submitted that she has withdrawn entire amounts from such account and, therefore, her cry that husband has not managed for her livelihood is not correct. It is also contended that wife is having credit card and add-on credit card and thereby she can use such credit card whereas payment of such credit card is being made by the husband. Therefore, it is submitted that husband has not left the wife on mercy but wife has withdrawn substantial amount from the accounts just to show that there is no balance available for her livelihood with her. However, it is contended that if at all there is necessity to make any further arrangement, husband is ready and willing to make arrangement not only for traveling from California to India, but also for her reasonable maintenance and expenditure. However, it is contended that such benefit cannot result into luxury to the wife since she is not behaving as a wife with the petitioner and even as a mother to the minor.

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9 For the purpose petitioner has pleaded in so many words about nature, behaviour and activities of the respondent - wife in para 2(d) to (w). I do not want to discuss all such factual details at this stage when trial Court is yet to decide the dispute between the parties after extending an opportunity to the wife to submit her case. However, it cannot be ignored that at present wife and her learned advocates have chosen to oppose this petition and interim relief without placing any defense on record and solely on the ground that let the petitioner be cross - examined by them to prove that he is pleading lie before the Court which would result into purgatory and, therefore, this Court should not entertain such petition and should not continue interim relief. Even for cross - examination by the respondent, the matter is required to be referred to the trial Court.

10 Similarly in averments in para 2(x) to (hh) as well as documents annexed with the documents are though relevant ,I do not want to discuss the same for the aforesaid reasons. In above paragraphs petitioner has contended that ;

(1)Respondent is always spending huge amount for larger accommodation, costly vehicle, costly and branded items.

(2)Respondent always want to go on holidays and wants to stay in luxurious hotels only.

(3)Respondent does not want to do house hold work and even cooking and therefore petitioner has to hire services of maid.

(4)Respondent wanted to get the pregnancy terminated without consent of the petitioner and because of disapproval of petitioner, gynecologist did not allow her to terminate pregnancy and thereupon with a child in womb, respondent has tried to jump off from the balcony to commit suicide.

(5)Respondent has even tried to kill herself by slicing her hand wrist, for which petitioner had to call for the police. Relevant documents to prove such incident is produced at annexure E which confirms such fact, wherein local police department has recorded that respondent is to be extended with medical treatment for self infliction on her own and for the purpose she was transferred to the hospital for treatment and thereafter detained for mental health evaluation. Annexure E is self explanatory of the position, and since it is recorded by the local police, there is no reason to disbelieve the same. Therefore, there is reason in believing that respondent has adopted a complete casual attitude towards the petitioner and minor.

(6)In October, 2012 when the respondent did not return from the particular place for two hours making the petitioner and the minor child wait for her on the road and when she was asked to be seated in the car, she refused to sit when the family had been on a trip. When they started from the spot, after intervention of police, the respondent opened the door of running car on freeway endangering the safety of the minor who was with them in the car and when the petitioner stopped the car, she again got out of the car and refused to get in. Under such circumstances, the petitioner had to again call the local police to handle the situation and only thereafter, the respondent sat in the car when police intervened.

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(7) Because of shoplifting, the petitioner had to spend \$2500/- to engage a lawyer and to pay professional fees and \$500/- towards community service charges. Documents of such incident is produced at Annexure 'D'.

(8) The Respondent has never bothered to take care of the minor even when he was having fever at 104 degree and she chose to prioritize her course over the health of the minor and failed to take even a few hours off to take care of the minor. (9) The respondent refused to sign the document of renewal of passport of the minor so also documents for acquiring OCI (Overseas Citizen of India Card) card for the minor.

11 Suffice to say that the prima facie evidence in the form of pleadings by the petitioner coupled with documentary evidence in the form of communication via email between the parties and more particularly involvement of police authorities to resolve the immediate issue during their stay in California, USA so also incident of shop lifting which resulted into charge against respondent and expenditure incurred by the petitioner to meet with those charges certainly goes to show that respondent may not be in a position to ensure the welfare of the child. It is also clear and obvious that respondent is not earning as on date and that to make herself independent she has started some course and stayed in USA, which is yet not completed and record shows that she is more keen to built her career rather than to ensure the welfare of the family and more particularly minor child.

12 However, it seems that even after the factual details as narrated in para 2(b) to (w) as well 2(x) to 2(hh) and in documents annexed with the petition, it seems that respondent wants to stay in America only and wants to pressurize the husband to stay with her in America and to spend as per her choice. A statement in her email at 6:56 a.m. on August 18, 2015 is so clear, wherein she has stated that she is ready to give last chance to such relationship though she showed her desire to start afresh but with a clear statement that as far as her coming to India is concerend, "that is not happening and that she closed her option if petitioner does not agree to her offer".

13 It cannot be ignored that irrespective of the technicality of entertaining such petition at interlocutory stage, what is material is duty of the Court to exercise its parens patriae jurisdiction as in cases involving custody of minor child, welfare of child is all the more onerous. Welfare of the minor in such cases being the paramount consideration, the Court has to approach the issue regarding the validity and enforcement of any decree or order carefully and simply because one Court has taken a particular view on any aspect concerning the welfare of the minor is not enough for the competent Court to shut out an independent consideration of the matter. The statute makes it clear that father is a natural guardian of his son and has preferential right to claim custody of a minor child. It is also clear and obvious that welfare of minor is also to be considered irrespective of financial and physical comfort, considering moral and ethical welfare of the child, which depends upon the facts and circumstances of each particular case. In case of dispute between mother and father for the custody, the Court is expected to strike a just and proper balance between the requirements of welfare of the minor child and the rights of the parents over the minor child. The Court should also take into account the preference of the minor child to stay with either parent or grandparent if he is old enough to form an opinion.

14 Therefore, the welfare of the minor child is of paramount consideration in the appointment of a guardian and provisions of the G & W Act, under which present litigation is preferred does not provide that custody of child of any age should be given to the mother only unlike

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the provision in the M & G Act, which provides that custody of child below five years of age should be with mother only, because in some cases mother may be unfit to provide all the love and comfort to be provided to a child of such a tender age.

15 Irrespective of all such issues, the main submission by the learned senior counsel appearing for the respondent is to the effect that this Court should vacate the interim injunction and to decide and to hold that Indian Court has no jurisdiction to entertain such a petition. However, considering the fact that when the petitioner had decided to stay in India and when the petitioner being the father and his minor son are in India, it is clear that when a person leaves his residence for good with no intention of returning and goes to some other place, to live the latter becomes his ordinary place of residence.

15.1 In the present case, the petitioner has left USA and it is his disclosure that now he is staying with his parents and want to continue staying in India with his parents. Thus so far as territorial jurisdiction is concerned, I do not see any substance in the submission of the respondent to throw away such litigation only on such ground. However, this is a prima facie determination and, therefore, it would be appropriate to permit the respondent to raise the issue of jurisdiction of Indian Courts before the Family Court where she is yet to file her reply.

16 Reference to the case of Rosy Jacob vs. Jacob Chakramakkal reported in AIR 1973 SC 2090 is material wherein, it is held that controlling consideration governing the custody of the children is the welfare of the children and not the rights of the parents and, therefore, only because Section 6(a) of the HMG Act which provides that custody of minor below age of five years shall ordinarily be with the mother, cannot be construed in stricto sensu without considering the welfare of the minor.

17 Though, I am keeping the final determination open by the Family Court after the respondent submits her case, at present, prima facie, the welfare of the child is certainly with the father who is otherwise also the natural guardian of the minor and, therefore, there was interim relief in favour of the father, which needs to be continued for a couple of weeks till the Family Court shall decide the issue finally mainly on the following grounds:

(I) mother is not earning till date. Therefore, she does not have a better financial condition to maintain or to see the welfare of the child;

(ii) the pleadings in para 2(d) to 2(w) of the petition confirms that the welfare of the child is certainly with the father and not with the mother considering her activities.

(iii) the petitioner being husband of the respondent and natural guardian of the minor being his father has decided to settle in India with his parents, who can take care of minor. Hence he cannot be said to have illegal custody of the minor and non-earning respondent may not be in a position to maintain the minor in USA, more particularly when she is studying.

18 However, though above observations, discussion and decision may seem to be harsh, considering the facts and circumstances, this Court is of the opinion to balance the situation between the parties because if natural or statutory guardian having meager income then law permits the Court to confirm the custody of child even with other near relative like grandmother, whereas, in the present case, custody is with the father who is otherwise

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capable to maintain the child and when he is living with his mother being grandmother of the minor, who is also capable to see the welfare of the child. Whenever, question arises before the Court pertaining to custody of a child, the Court should not decide the matter on legal consideration only, but on consideration, which serves the interest and welfare of the minor.

19 In the case between Kumar V. Jahgirdar vs. Chethana Ramatheertha reported in AIR 2004 SC 1525, though the Hon'ble Superme Court has relied upon the facts and circumstances of that case ultimately, not interfered with the custody with the mother, it is categorically observed that, 'we do not subscribe to the general observations and comments made by the High Court in favour of mother as parent to be always preferable to the father to retain custody of the child', further confirming that, 'such generalization in favour of the mother should not have been made'.

20 It cannot be ignored that order of custody and visiting rights are always interlocutory orders and can be moulded and changed as per the need of the child and, therefore, relying upon the available evidence on record, it is held that the custody of child as on date is to be continued with the father.

21 After lengthy arguments by both the sides, it was felt that in such cases attempt must be made to see that there is amicable settlement between the parties since, life of minor child is ultimately disturbed because of the matrimonial dispute between the spouses. Therefore, both the learned advocates were called upon to verify the possibility of settlement.

21.1 In response, the learned advocate for the petitioner has filed additional affidavit disclosing certain factual details with reference to ill health of his father considering the arguments of the other side and confirm that \$1200 was in balance of Debit Card when he left the USA. However, at present, we are concerned with the undertaking filed with such an affidavit wherein, the petitioner has confirmed that he will provide flight ticket to the respondent as per her convenient date so that she reaches to Ahmedabad to initiate the process of mediation and during such process, the respondent can stay at his place or he will provide necessary alternative accommodation to the respondent. The petitioner has also produced the copy of Lease Termination Agreement signed by the petitioner as well as the respondent herself in answer to the allegation by the respondent that the petitioner has terminated the lease w.e.f. 01/10/2015. However, such document, which is titled as "Notice to intend to vacate" is practically signed by both the parties and that to before petitioner has left USA and thereby before filing such litigation. Therefore, it is not true and correct to say that petitioner has terminated the lease so as to see that respondent may not have any support in USA. Petitioner has also produced copy of resignation to his employer contending that he will need to be in India.

21.2 The learned advocate for the respondent submitted that he was not able to contact the respondent and to ascertain that whether she is ready and willing to enter into mediation process for amicable settlement or not, therefore, at present, this Court has no option but to pass an appropriate order.

22 In view of above facts and circumstances, this petition needs to be disposed of with following directions:

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(1) It would be appropriate for the respondent to appear before the trial Court to file her reply, if she so desire for objecting the relief claimed in the Family Suit No. 1546 of 2015. The respondent is at liberty to raise all or any issues like jurisdiction and any issues that may be permissible as per law.

(2) The Family Court shall dispose of all such interlocutory interim application within four weeks, without fail after completion of pleadings by both the sides. Both the parties have to complete the pleadings within two weeks from the date of this order, without fail.

(3) The petitioner - husband shall deposit following amount before the trial Court within a week from today, without fail:

(A) Rs.1,00,000/- (Rupees One Lac Only) towards to and fro traveling expenditure for Air Ticket in economic class by shortest route for the respondent - wife, so as to enable her to attend and appear in the Court at Ahmedabad, if she so desires, else she can appear through her power of attorney or advocate as per her desire. In that case, she would not be entitled to withdraw the amount for traveling expenditure.

Respondent may convey the petitioner about her convenient flight details, so as to enable the petitioner to book the tickets and to credit difference in her account of respondent may ask for crediting her account to buy ticket on her own. In that case, she has to produce on record the boarding pass and photocopy of her passport with arrival stamp in India.

(B) Rs.1,00,000/- (Rupees One Lac Only) in lumpsum towards minimum requirement of the wife for staying in Ahmedabad, expenditure to either stay in Ahmedabad or traveling from Jaipur to Ahmedabad and for managing to defend this litigation, since her parents are residing at Jaipur, which would be termed as "cost of litigation". (C) Rs.1,00,000/- (Rupees One Lac Only) toward maintenance of the respondent - wife. However, it is made clear that such amount is absolutely ex-gratia and ad hoc and without entering into any factual details, so as to enable the wife to survive herself in India. Thereby, this amount should not be treated as agreed or confirmed amount of maintenance by the Court's order, as and when respondent prays for regular maintenance before appropriate Court, in that case, while awarding amount of monthly maintenance, the Court shall determine the amount of maintenance in accordance with applicable law and evidence and husband may claim set off of this amount.

(4) Till Family Suit is decided, interim relief shall continue. However, it is made clear that trial Court shall decide the application for custody purely in accordance with law and evidence, which may be adduced by both the sides before it without being influenced by the order of stay granted by this Court and observations made in this order.

23 Petition is disposed of accordingly. Direct Service is permitted.

24 Learned advocate Mr. Bhas Mankad appearing for respondent - wife submits to stay operation of this order, so as to enable the respondent to challenge the same before

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appropriate Forum. I do not see any substance in such submission, since issue is relating to custody of minor child and, therefore, such request is rejected.

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