

S U P R E M E C O U T O F I N D I A
 RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).206/2010

(From the judgement and order dated 11/11/2009 in FCA No. 12/2008 of The HIGH COURT OF BOMBAY)

YOGESH BHAGWANDAS MEHTA Petitioner(s)

VERSUS

UDAY HARILAL JOSHI Respondent(s)

(With prayer for interim relief)

Date: 12/04/2010 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. Kalyan Bandopadhyay, Sr. Adv.
 Mr. U.U. Lalit, Sr. Adv.
 Ms. Manjula Rao, Aadv.
 Mr. Manish Ray, Adv.
 Mrs V.D. Khanna,Adv.

For Respondent(s) Mr. Shyam Divan, Sr. Adv.
 Mr. Arun Kumar Beriwal,Adv.

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

The special leave petition is
 disposed of in terms of the signed order.

(NEETU KHAJURIA) (R.K. SHARMA)
 SR. P.A. Court Master
 (Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO.206 OF 2010

YOGESH BHAGWANDAS MEHTA

PETITIONER

VERSUS

UDAY HARILAL JOSHI

RESPONDENT

O R D E R

Heard Mr. Kalayan Bandopadhyay and Mr. U.U. Lalit, learned Senior Counsel appearing for the petitioner and Mr.

Shyam Divan, learned Senior Counsel appearing for the respondent.

On hearing counsel for the parties at some length we are satisfied that the order of the High Court insofar as it gives the custody of the child Drishti to the respondent, her maternal uncle, does not call for any interference by this Court. But, at the same time, we find that the High Court order does not properly address the question of the petitioner's (who is none else then the child's father) visitation rights to the child.

The High Court disposed of the issue of visitation rights to the petitioner by observing very briefly, in paragraph 10 of the order, as follows:-

"In the meantime, the uncle of the child has also agreed that whenever a request is made by the father of the child to meet the child, a meeting shall be arranged."

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We feel that the issue of petitioner's right of visitation to the child should not be left vague and undetermined but should be spelled out more precisely.

We, accordingly, leave it open to the petitioner to move the High Court for his access and visitation rights to the child. In case, such a petition is filed, the High Court, after hearing both sides, will pass an order determining the frequency and the periods of time during which the child may be left with the petitioner.

Mr. Lalit submitted that in the High Court order there were certain observations concerning the petitioner that are bound to have an adverse effect on his request for access and visitation rights to his daughter.

We think that the apprehension is misconceived. The observations were made in the context of custody of the child. While considering the issue of visitation right the High Court will undoubtedly give due allowance and allow the

petitioner the opportunity to build up and restore his relationship with the child as her father.

For the coming summer vacation in the school, we direct that the child shall spend half of the vacation period with the petitioner and his family at his home. During that period the petitioner may also take the child outside Bombay after due notice to the respondent.

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If the second half of the vacation is mutually agreed for the child to stay with the petitioner, she should return to the respondent's home at least three days prior to the reopening of the school.

The Special Leave Petition is disposed of in the above terms.

.....J.
(Aftab Alam)

.....J.
(T.S. Thakur)

New Delhi,

April 12, 2010.