

**IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION**

**Miscellaneous Application No(s).1173 of 2020 in
Special Leave Petition (Criminal) No 1342 of 2020**

Mahendra Ramesh Thanai

... Petitioner(s)

Versus

Namita Mahendra Thanai and Anr

... Respondent(s)

WITH

**Contempt Petition (Civil) No 445 of 2020 in
Special Leave Petition (Criminal) No 1342 of 2020**

ORDER

1 On 28 February 2020, this Court recorded a consensual arrangement envisaging shared custody of the three-year old child between the parents. Under the consensual arrangement, it was envisaged that the mother(Namita Thanai) would have custody from 6 pm on Thursday until 6 pm on Sunday and the father(Mahendra Thanai) would have custody of the child for the rest of the week. The parties had agreed to this arrangement having regard to the welfare of the child and their own convenience.

2 Difficulties were faced by the parties after the third week of March 2020 in complying with the order during the period of the lockdown in Mumbai following the outbreak of Covid-19. However, it is an agreed position that the order of this Court dated 28 February 2020 has been implemented in the course of the last two weeks.

3 Mr Siddhartha Dave, learned senior counsel appearing on behalf of the father of the child, states that his client unconditionally agrees and undertakes to abide by the

consensual arrangement which had been arrived at by this Court. We order and direct him to do so without fail.

4 At this stage, since the consensual arrangement is being implemented by the parties, we are not inclined to entertain the application for modification which has been moved by the mother of the child, particularly since the Guardianship proceedings are pending before the Family Court, Bandra. The order of this Court indicates that the arrangement which was agreed upon between the parties would continue to remain in force until the Guardianship proceedings are disposed of by the Family Court.

5 Ms Malavika Rajakotia, learned counsel appearing on behalf of the applicant in MA No 1173 of 2020, states that the written statement of Namita Thanai will be filed before the Family Court within a period of three weeks from today. The statement shall be punctiliously observed.

6 We direct the Family Court to dispose of the Guardianship proceedings, being Petition No A-2279 of 2019, within a period of three months of the date on which a certified copy of this order is placed on the record of the Family Court. In order to obviate the parties being required to move this Court in future, we direct that in the event of an unforeseen emergency warranting urgent orders, it would be open to the parties to apply before the Family Court for necessary directions in that regard.

7 The Miscellaneous Application shall accordingly stand disposed of.

8 Since the arrangement postulated in the order dated 28 February 2020 has been implemented over the past two weeks and in view of the statement which has been made by Mr Siddhartha Dave on behalf of the contemnor, we do not consider it expedient in the interest of justice to pursue the contempt proceeding further. Liberty to

revive the contempt proceedings in the event of any breach in the future.

9 The contempt proceedings are disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Indu Malhotra]

.....J.
[K M Joseph]

New Delhi;
July 21, 2020

ITEM NO.6+13

Virtual Court 4

SECTION II-A

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

Miscellaneous Application No(s).1173 of 2020 in
Special Leave Petition (Criminal) No 1342 of 2020

Mahendra Ramesh Thanai

... Petitioner(s)

Versus

Namita Mahendra Thanai and Anr

... Respondent(s)

(WITH IA No.58535/2020-EXEMPTION FROM FILING O.T. and IA No.58534/2020-MODIFICATION)

WITH

Contempt Petition (Civil) No 445 of 2020 in
Special Leave Petition (Criminal) No 1342 of 2020

Date : 21-07-2020 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Siddhartha Dave, Sr. Adv.
Ms. Pallavi Pratap, Adv.
Ms. Prachi Pratap, Adv
M/S Pratap & Co. AOR

For Respondent(s)/ Ms. Malavika Rajkotia, Adv
applicant Ms. Ekta Sharma
Mr. Lakshmi Raman Singh, AOR

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

1 The Miscellaneous Application and the Contempt Petition stand disposed of in terms of the signed order.

2 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)

AR-CUM-PS

(Signed order is placed on the file)

(SAROJ KUMARI GAUR)

COURT MASTER