

INDIAN NEWSPAPER COVERAGE

HC raps man for false claim that he, minor daughter faced racial discrimination by Dutch wife's kin

The Bombay High Court has deprecated a man for claiming that he illegally brought his minor daughter to India from the Netherlands last year as both of them faced racial discrimination there by the family members of his estranged wife, a Dutch national.



PTI
Updated On Feb 8, 2024 at 02:48 PM IST

The Bombay High Court has deprecated a man for claiming that he illegally brought his minor daughter to India from the Netherlands last year as both of them faced racial discrimination there by the family members of his estranged wife, a Dutch national. A division bench of Justices AS Gadkari and Shyam Chandak in an order passed on Wednesday said the plea of racial discrimination adopted by the man was "completely hollow and was a sham plea". "India is undoubtedly known for its zero tolerance policy towards racial discrimination,

'Zero-Tolerance Towards Racial Discrimination In India,' Says Bombay High Court

The court said that the plea of racial discrimination adopted by the man was "completely hollow and a sham".

Bombay High Court rubbishes father's claims about discrimination in Netherlands

The Bombay High Court was hearing a petition filed by the Dutch woman, claiming that her estranged husband, an Indian citizen, had illegally detained their child.

Listen to Story

Share

ADVERTISEMENT

iPhone 15



100% Instant Story Discount
100% Instant Cashback on
your next order. Use code: INSTANT100

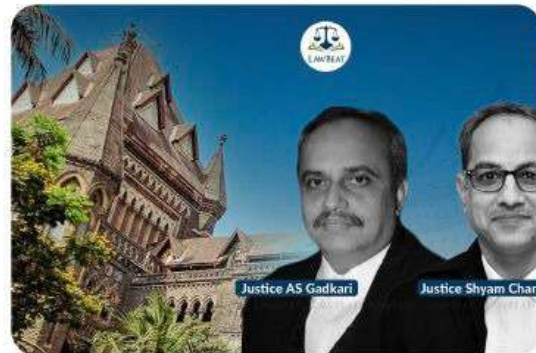


The court said the claim about racial discrimination was a "sheer afterthought" by the father of Indian origin.

Bombay HC pulls up man for false claim of racial discrimination by Dutch in-laws

The HC ordered him to hand over daughter's custody to the ex-wife.

Bombay High Court Grants Child's Custody To Dutch Mother, Rejects Racial Discrimination Contention Of Indian Father



DH **DECEMBER** Home | Budget 2024 | India | Karnataka | Opinion | World | Business

Home | India | Maharashtra :

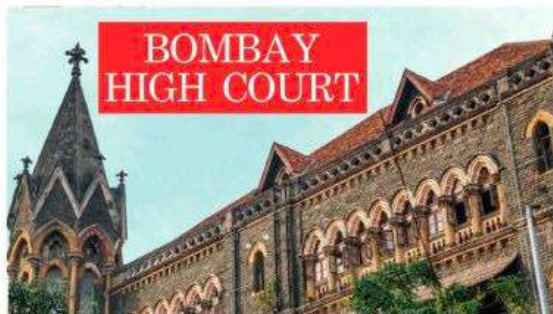
Bombay HC raps man for false claim of racial discrimination by Dutch wife's kin

The court was hearing a petition filed by the woman, a Dutch national, seeking custody of her five-year-old daughter to be handed over to her.

PTI

Last Updated 08 February 2024, 10:47 IST

Follow Us



The Bombay High Court. Credit: PTI File Photo

भास्कर खास • कानूनी लड़ाई के बाद विदेशी महिला के पक्ष में बॉम्बे हाई कोर्ट का फैसला

पांच साल की बेटी को अपने साथ नीदरलैंड ले जा सकेगी मां पिता बच्ची को लेकर हो गया था फरार; पुलिस ने ढूंढ निकाला

भास्कर न्यूज | मुंबई

बॉम्बे हाई कोर्ट से बुधवार को नीदरलैंड की महिला को बड़ी राहत मिली। अदालत ने महिला की याचिका को स्वीकार करते हुए उसकी 5 साल की बेटी को नीदरलैंड ले जाने की अनुमति दे दी है लेकिन इसके लिए महिला को कानूनी लड़ाई लड़नी पड़ी। वह कुछ महीने पहले पांच साल की बेटी को उसके पिता से मिलाने भारत आई थी। इसी भेंट के दरम्यान किसी बहाने पिता बेटी को लेकर फरार हो गया। तभी से महिला परेशान थी, इसके बाद महिला ने अदालत की शरण ली और अदालत के आदेश के बाद 9 जनवरी को वर्सोवा पुलिस ने बच्ची को ढूंढा और मां (विदेशी महिला) के

हवाले कर दिया। न्यायमूर्ति अजय गडकरी और न्यायमूर्ति श्याम चांडक की पीठ ने बुधवार को नीदरलैंड की महिला की ओर से वरिष्ठ वकील अनिल मल्होत्रा और वकील दुर्गेश जायसवाल द्वारा दायर हैबियस कॉर्पस (बंदी प्रत्यक्षीकरण) याचिका पर फैसला सुनाया। पीठ ने कहा कि याचिकाकर्ता की याचिका स्वीकार कर ली गई है। उसे अपनी 5 साल की बच्ची को लेकर अपने देश नीदरलैंड जाने की इजाजत है। अदालत ने याचिकाकर्ता और उसकी बेटी के डच पासपोर्ट लौटाने का निर्देश दिया है। जबकि बेटी का दावा करने वाले पिता अमित सुरवसे को डच की फैमिली अदालत में जाने को कहा है, जहां से उसे अपनी बेटी से मिलने की इजाजत मिली थी।



मिलने के बहाने बच्ची को लेकर फरार

डच अदालत ने पिता को बच्ची से मिलने की इजाजत दी है। बच्ची की मां उसे पिता से मिलाने भारत आई थी। वह अंधेरी (प) के एक होटल में अपने माता-पिता के साथ ठहरी थी। बच्ची का पिता सुरवसे बच्ची से मिलने आया और उसे किसी बहाने से अपने साथ लेकर गया तो वापस लौटा ही नहीं। इस बीच महिला अपनी बच्ची के लिए पूर्व पति से संपर्क करने की कोशिश करती रही, लेकिन उनसे संपर्क नहीं हो सका। इसके बाद उसने बच्ची को पाने के लिए हाई कोर्ट का दरवाजा खटखटाया।

अदालत के निर्देश पर पुलिस ने बच्ची को ढूंढ निकाला : अदालत ने 8 जनवरी को परिमंडल-9 के पुलिस उपयुक्त कृष्णकांत उपाध्याय की देखरेख में वर्सोवा पुलिस को विदेशी महिला की बच्ची को ढूंढने का निर्देश दिया था। पुलिस ने पिता के साथ बच्ची को ढूंढ निकाला और अदालत में पेश किया। वकील सुरवसे ने अदालत से बेटी को अपने पास रखने का अनुरोध किया था। अदालत ने दोनों पक्षों की दलीलें सुनने के बाद विदेशी महिला के पक्ष में अपन फैसला सुनाया। वकील अमित सुरवसे ने नीदरलैंड की महिला से शादी किया था, दोनों की पांच साल की बेटी है। उनका तलाक हो गया है। बच्ची अपनी मां के साथ नीदरलैंड में रहती है।

epaper-bhaskarhindi-com.w16-demo.readwhere.com

Thu, 08 February 2024

दैनिक भास्कर
https://epaper.bhaskarhindi.com/c/74520391



HC pulls up man for false claim of racial discrimination by Dutch in-laws: 'Lowered India's image'

EXPRESS NEWS SERVICE
MUMBAI, FEBRUARY 8

THE BOMBAY High Court on Wednesday, while allowing a plea by a Netherlands/Dutch national woman seeking access or custody of the minor daughter who was "illegally" detained by her ex-husband from Mumbai, pulled up the man for claiming that he illegally brought his minor daughter to India because they were facing racial discrimination by family members of his ex-wife.

The HC termed the ex-husband's claim of racial discrimination as "completely hollow and a sham plea". It observed the man has "lowered the image of India and its citizens in the view of the petitioner (woman) and her fellow nationals".

"India is undoubtedly known for its zero tolerance policy towards racial discrimination. The Respondent (ex-husband), however, had the audacity to take shelter on the defence of racial discrimination; that too against the petitioner, who once was his wife and spent considerable years with him. This way, he has lowered the image of India and its citizens in the view of the petitioner and her fellow nationals. We record our displeasure for this conduct as according to us, it is unethical," a division bench of Justice Ajey S Gadkari and Shyam

The court ordered him to hand over daughter's custody to the ex-wife, who had filed a a habeas corpus plea

C Chandak noted in its verdict.

The bench passed an order in plea by a 37-year-old Dutch national woman who filed a habeas corpus plea claiming "illegal detention" by her ex-husband, an Indian national. The two got married in July, 2013, after which he was registered as a Dutch resident.

Their daughter was born in December, 2018 and the District Court in Netherlands granted divorce to the couple in April, 2023. It held the child will be in custody of her mother. The said court in July, last year granted permission to the husband to travel to India with the daughter for nearly 15 days starting from August 5, that year.

As the ex-husband did not return after the stipulated time, the petitioner moved the District Court in Netherlands, which directed him to bring back the child or hand the child over to the wife. As the man failed to comply with said directions, the petitioner was prompted to approach the Bombay HC to get the child back.

The husband, through senior advocate Mihir Desai claimed

that his ex-wife's parents had subjected the daughter to racial discrimination and abuse due to her complexion and they wanted to "sever her ties with India".

However, advocate Anil Malhotra for the wife argued that the couple was married as per Dutch laws and rights of custody over their daughter was to be determined by the court in Netherlands.

Malhotra argued that detention of the child in India is illegal/unauthorised and that the five-year-old girl in her tender age required her mother's care.

The HC pulled up the respondent for raising a "vague" allegation of "racial discrimination" at 'belated stage'.

"The sudden disconnect of the child from her native; the Netherlands is unjustifiable because she is a Dutch National..." the bench noted, adding that the petitioner was providing a conducive atmosphere to her daughter.

The High Court directed the man to hand over the custody of the child, however, permitted him visitation and interaction rights.

"The child is of a tender age and thus requires equal support of both parents to see that she grows under the umbrella of diverse tradition and culture of the two countries and steps into the world as a respectable person," the HC held.

Dad's ways 'unethical': HC lets Dutch wife take child abroad

Indian Man Had Cited 'Racial Discrimination'

Swati.Deshpande
@timesgroup.com

Mumbai: Recording displeasure over an Indian father's "unethical conduct" in taking recourse to a defence of 'racial discrimination' against his Dutch wife, Bombay high court permitted the mother to take a child, aged five, to the Netherlands.

The HC, in a habeas corpus plea filed by the 37-year-old Dutch national, noted that the father "unnecessarily flouted" its orders and those of the foreign court and his conduct in bringing the child to India five months ago "deprived the biological mother of her natural love and affection for four-five months".

Noting the mother's loving and caring conduct towards the child, HC said her return to the native land with her mother was in the child's best interest.

"India is undoubtedly known for its zero tolerance policy towards racial discrimination," a division bench of Justices Ajay Gadkari and Shyam Chandak said, adding that the father, "however, had the audacity to invoke a defence of racial discrimination".

The father's counsel submitted that the father and child were "subjected to racial abuse". HC noted that the

"vague" discrimination arguments were raised belatedly last month when filing an appeal against a Nov 2023 order of a Dutch court requiring him to return the child to the Netherlands and found the plea to be "sham". By such accusations, the father "has lowered the image of India and its citizens in the view of petitioner (mother) and her fellow nationals," observed the HC.

The Indian man had married the Dutch woman in 2013 under Dutch laws and divorced in April 2023 by a judgment of a Dutch court which said their child would have main residence with mother in the Netherlands and father would have rights to stay in touch with child.

In August, the father was granted permission by a Dutch court to travel to Mumbai with the child for two weeks. The father, however, failed to return to the Netherlands, violating his undertaking to the court, prompting the mother to move the local court in the Netherlands in September, seeking her child's return, which the court directed in November.

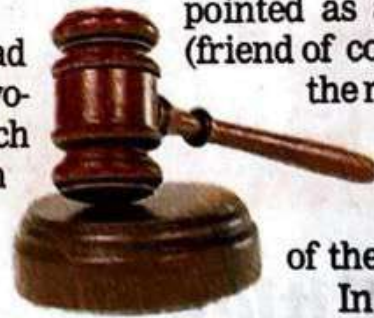
The father, represented by senior counsel Mihir Desai, denied all allegations against

him of illegally detaining the child, and said the couple lived in India for about three years before the child was born.

Additional public prosecutor S V Gavand said police following orders of the court to hand over child's pro-tem custody to the mother, apprehended the father at Daman and produced the child before HC in January.

Advocate Subod Desai appointed as amicus curiae (friend of court to assist in the matter) said HC may decide the issue in best interest of the child.

In August 2023 he undertook to return to the Netherlands, said her lawyers Anil Malhotra and Anagha Nimbkar, but soon after a November 2023 order of the Dutch court, ordering return of child, he filed a petition in the Mumbai family court, seeking permanent custody of the child after admitting the child to a local school in the city. HC said he did so "intentionally" because he knew that once the Dutch mother is induced to litigate here, it would take considerable time to decide on the custody issue, by which time the child who has roots in Netherlands will "sufficiently develop her roots in India".



THE INDIAN EXPRESS 9 FEBRUARY 2024

Bombay HC pulls up man for false claim of racial discrimination by Dutch in-laws

The HC ordered him to hand over daughter's custody to the ex-wife

The Bombay High Court on Wednesday, while allowing a plea by a Netherlands/Dutch national woman seeking access or custody of the minor daughter who was 'illegally' detained by her ex-husband from Mumbai, pulled up the man for claiming that he illegally brought his minor daughter to India because they were facing racial discrimination by family members of his ex-wife.

The HC termed the ex-husband's claim of racial discrimination as 'completely hollow and a sham plea.' It observed the man has 'lowered the image of India and its citizens in the view of the petitioner (woman) and her fellow nationals.' "India is undoubtedly known for its zero tolerance policy towards racial discrimination. The Respondent (ex-husband), however, had the audacity to take shelter on the defence of racial discrimination; that too against the petitioner, who once was his wife and spent considerable years with him. This way, he has lowered the image of India and its citizens in the view of the petitioner and her fellow nationals. We record our displeasure for this conduct as according to us, it is unethical," a division bench of Justice Ajey S Gadkari and Shyam C Chandak noted in its verdict.

The bench passed an order in plea by a 37-year-old Dutch national woman who filed a habeas corpus plea claiming 'illegal detention' by her ex-husband, an Indian national. The two got married in July, 2013, after which he was registered as a Dutch resident.

Their daughter was born in December, 2018 and the District Court in Netherlands granted divorce to the couple in April, 2023. It held the child will be in custody of her mother. The said court in July, last year granted permission to the husband to travel to India with the daughter for nearly 15 days starting from August 5, that year.

As the ex-husband did not return after the stipulated time, the petitioner moved the District Court in Netherlands, which directed him to bring back the child or hand the child over to the wife. As the man failed to comply with said directions, the petitioner was prompted to approach the Bombay HC to get the child back. The husband, through senior advocate Mihir Desai claimed that his ex-wife's parents had subjected the daughter to racial discrimination and abuse due to her complexion and they wanted to 'sever her ties with India.' However, advocate Anil Malhotra for the wife argued that the couple was married as per Dutch laws and rights of custody over their daughter was to be determined by the court in Netherlands. Malhotra argued that detention of the child in India is illegal/unauthorised and that the five-year-old girl in her tender age required her mother's care.

The HC pulled up the respondent for raising a 'vague' allegation of 'racial discrimination' at 'belated stage'. "The sudden disconnect of the child from her native; the Netherlands is unjustifiable because she is a Dutch National..." the bench noted, adding that the petitioner was providing a conducive atmosphere to her daughter.

The HC directed the man to hand over the custody of the child, however, permitted him visitation and interaction rights. "The child is of a tender age and thus requires equal support of both parents to see that she grows under the umbrella of diverse tradition and culture of the two countries and steps into the world as a respectable person," the HC held.

Bombay High Court Criticizes Man for Falsely Claiming Racial Discrimination in Custody Case

The Bombay High Court has strongly reprimanded a man for his baseless allegations of racial discrimination in the Netherlands by his Dutch wife's family, used as a pretext to illegally bring his minor daughter to India. Justices A S Gadkari and Shyam Chandak dismissed the man's claims as "completely hollow" and a "sham plea," emphasizing that such actions tarnish India's reputation and its stance against racial discrimination.

The controversy arose from a petition by the Dutch national mother, seeking the return of her five-year-old daughter, whom the father had taken from the Netherlands to India in August 2023, contrary to a Dutch court's custody order favoring the mother. The father's subsequent petition in Mumbai for permanent custody was underpinned by allegations of racial discrimination and the child's purported fear of returning to the Netherlands.

The High Court, however, saw these claims as an afterthought and a strategy to circumvent the Dutch court's ruling. The bench ordered the immediate return of the child to her mother, highlighting the potential harm of "Parental Alienation Syndrome" where the child could be led to believe that her mother had abandoned her.

Emphasizing the child's best interests and welfare, the court noted the strong bond between the mother and daughter, underscoring the importance of their reunion, especially considering the child's young age and her brief stay in India. The court also instructed adherence to the Dutch court's visitation rights order, advocating for the child's growth under the influence of both her parents' diverse cultural backgrounds.

LAW TREND FEBRUARY 8, 2024

Bombay High Court Criticizes Man for Falsely Claiming Racial Discrimination in Custody Case

The Bombay High Court has strongly reprimanded a man for his baseless allegations of racial discrimination in the Netherlands by his Dutch wife's family, used

Read more: <https://lawtrend.in/bombay-high-court-criticizes-man-for-falsely-claiming-racial-discrimination-in-custody-case/>

The Bombay High Court has strongly reprimanded a man for his baseless allegations of racial discrimination in the Netherlands by his Dutch wife's family, used as a pretext to illegally bring his minor daughter to India. Justices A S Gadkari and Shyam Chandak dismissed the man's claims as "completely hollow" and a "sham plea," emphasizing that such actions tarnish India's reputation and its stance against racial discrimination.

The controversy arose from a petition by the Dutch national mother, seeking the return of her five-year-old daughter, whom the father had taken from the Netherlands to India in August 2023, contrary to a Dutch court's custody order favoring the mother. The father's subsequent petition in Mumbai for permanent custody was underpinned by allegations of racial discrimination and the child's purported fear of returning to the Netherlands.

The High Court, however, saw these claims as an afterthought and a strategy to circumvent the Dutch court's ruling. The bench ordered the immediate return of the child to her mother, highlighting the potential harm of "Parental Alienation Syndrome" where the child could be led to believe that her mother had abandoned her.

Emphasizing the child's best interests and welfare, the court noted the strong bond between the mother and daughter, underscoring the importance of their reunion, especially considering the child's young age and her brief stay in India. The court also instructed adherence to the Dutch court's visitation rights order, advocating for the child's growth under the influence of both her parents' diverse cultural backgrounds.

BAR AND BENCH
FEBRUARY 09, 2024

Bombay High Court gives custody of child to Dutch mother, criticises Indian father for alleging racial discrimination

The Court added that it was unethical of the Indian father to claim that he was subjected to racial discrimination by his former wife when she had spent several years with him as a married couple.

The Bombay High Court recently granted custody over a five-year-old child to her Dutch mother after the mother claimed that her former husband, an Indian citizen, had illegally detained their child.

While doing so, a division bench of Justice **AS Gadkari** and **Shyam Chandak** also rejected the Indian father's claim that he and the child were subjected to racial discrimination by his estranged Dutch wife.

"India is undoubtedly known for its zero-tolerance policy towards racial discrimination. The husband, however, had the audacity to take the shelter of the defence of racial discrimination; that too against the Petitioner, who once was his wife and spent considerable years with him. This way, he has lowered the image of India and its citizens in the view of Petitioner and her fellow nationals. We record our displeasure for this conduct as according to us, it is unethical," the Court said.

Justice AS Gadkari and Justice Shyam Chandak

The husband, an Indian national had married the Dutch woman in July 2013. He was thereafter registered as a Dutch resident. Five years later, in 2018, the couple had a child who also became a Dutch citizen.

The couple later filed for divorce before a district court in Netherland. The divorce was granted on April 28, 2023, and the custody of the child was handed over to the mother.

In July 2023, the same court permitted the husband to bring the child to India for a short visit between August 5-19, 2023. The husband allegedly obtained a new passport for the child with an intention to never return to the Netherlands, even though the child had an Overseas Citizen of India (OCI) card.

When the husband did not return, the Dutch woman approached the district court in the Netherlands and urged it to order that her former husband bring back their child.

Despite court orders to bring the child back, the former husband failed to comply. This compelled the wife to approach the Bombay High Court for relief.

The husband opposed the petition, claiming that the child and he were subjected to racial discrimination by his former wife and family.

The High Court was not convinced by the allegation and also found that the husband had raised the claim of discrimination only after he filed an appeal before the Dutch court in 2024.

“The defence of racial discrimination is taken at a very belated stage and in the pleadings of this proceeding is as vague as possible,” the High Court noted.

After interacting with the child, the Court also observed that the child seemed to be comfortable in the company of the mother. This ruled out the possibility of racial discrimination, the Court opined.

The bench further opined that it was unjustifiable for the five-year-old child to suddenly disconnect from her native country (Netherlands).

For these reasons, the Court directed that the custody of the child be handed over to the mother.

Dad's ways 'unethical': Bombay HC lets Dutch wife take child abroad


Swati Deshpande / TNN / Updated: Feb 9, 2024, 09:46 IST



SHARE



AA

FOLLOW US 

New For You



The Indian father, represented by Mihir Desai, denied allegations of illegally detaining the child during the custody battle. The Bombay high court criticized the father for intentionally inducing the Dutch mother to litigate in India, causing delays in the custody issue.

MUMBAI: Recording displeasure over an Indian father's "unethical conduct" in taking recourse to a defence of 'racial discrimination' against his Dutch wife , Bombay high court permitted the mother to take a child, aged five, to the Netherlands.

The HC, in a habeas corpus plea filed by the 37-year-old Dutch national, noted that the father "unnecessarily flouted" its orders and those of the foreign court and his conduct in bringing the child to India five months ago "deprived the biological mother of her natural love and affection for four-five months".

Noting the mother's loving and caring conduct towards the child, HC said her return to the native land with her mother was in the child's best interest.

"India is undoubtedly known for its zero tolerance policy towards racial discrimination," a division bench of Justices Ajay Gadkari and Shyam Chandak said, adding that the father, "however, had the audacity to invoke a defence of racial discrimination".

The father's counsel submitted that the father and child were "subjected to racial abuse". HC noted that the "vague" discrimination arguments were raised belatedly last month when filing an appeal against a Nov 2023 order of a Dutch court requiring him to return the child to the Netherlands and found the plea to be "sham". By such accusations, the father "has lowered the image of India and its citizens in the view of petitioner (mother) and her fellow nationals," observed the HC.

The Indian man had married the Dutch woman in 2013 under Dutch laws and divorced in April 2023 by a judgment of a Dutch court which said their child would have main residence with mother in the Netherlands and father would have rights to stay in touch with child.

In August, the father was granted permission by a Dutch court to travel to Mumbai with the child for two weeks. The father, however, failed to return to the Netherlands, violating his undertaking to the court, prompting the mother to move the local court in the Netherlands in September, seeking her child's return, which the court directed in November.

The father, represented by senior counsel Mihir Desai, denied all allegations against him of illegally detaining the child, and said the couple lived in India for about three years before the child was born.

Additional public prosecutor S V Gavand said police following orders of the court to hand over child's pro-tem custody to the mother, apprehended the father at Daman and produced the child before HC in January.

Advocate Subod Desai appointed as amicus curiae (friend of court to assist in the matter) said HC may decide the issue in best interest of the child.

In August 2023 he undertook to return to the Netherlands, said her lawyers Anil Malhotra and Anagha Nimbkar, but soon after a November 2023 order of the Dutch court, ordering return of child, he filed a petition in the Mumbai family court, seeking permanent custody of the child after admitting the child to a local school in the city. HC said he did so "intentionally" because he knew that once the Dutch mother is induced to litigate here, it would take considerable time to decide on the custody issue, by which time the child who has roots in Netherlands will "sufficiently develop her roots in India".

बॉम्बे हाईकोर्ट: नीदरलैंड की महिला को 5 साल की बेटी को अपने देश ले जाने की दी इजाजत

डिजिटल डेस्क, मुंबई। बॉम्बे हाई कोर्ट से बुधवार को नीदरलैंड की महिला को बड़ी राहत मिली। अदालत ने महिला की याचिका को स्वीकार करते हुए उसकी 5 साल की बेटी को अपने देश लेकर जाने की अनुमति दे दी। पिछले दिनों भारतीय मूल का वकील पिता अमीत सिद्धार्थ सुरवसे 5 साल की बेटी को लेकर गायब था। अदालत ने 9 जनवरी को वसोंवा पुलिस बच्ची को ढूंढ निकाली और बच्ची को मां (विदेशी महिला) के हवाले कर दिया। न्यायमूर्ति अजय गडकरी और न्यायमूर्ति श्याम चांडक की खंडपीठ ने बुधवार को नीदरलैंड की महिला की ओर से वरिष्ठ वकील अनिल मल्होत्रा और वकील दुर्गेश जायसवाल की दायर हैबियस कार्पस (बंदी प्रत्यक्षीकरण) याचिका पर फैसला सुनाया।

खंडपीठ ने कहा कि याचिकाकर्ता की याचिका स्वीकार कर ली गई है। उसे अपनी 5 साल की बच्ची को लेकर अपने देश नीदरलैंड जाने की इजाजत है। अदालत ने अपनी रजिस्ट्री याचिकाकर्ता और उसकी बेटी के डच पासपोर्ट लौटाने का निर्देश दिया है। जबकि बेटी का दावा करने वाले पिता सुरवसे को डच की फैमिली अदालत में जाने को कहा, जहां से उसे अपनी बेटी से मिलने की इजाजत मिली थी।

डच अदालत ने पिता को बच्ची से मिलने की इजाजत दी है। बच्ची की मां उसके पिता से मिलाने बच्ची को लेकर भारत आयी थी। वह अंधेरी (प.) के एक होटल में अपने माता-पिता के साथ ठहरी थी। बच्ची का पिता सुरवसे बच्ची से मिलने आया और उसे बहाने से अपने साथ लेकर गए और वापस लेकर नहीं लौटा। मां अपनी बच्ची और पूर्व पति से संपर्क करने की कोशिश की, लेकिन उनसे संपर्क नहीं हो सका। इसके बाद उसने बच्ची को पाने के लिए हाई कोर्ट का दरवाजा खटखटाया।

अदालत ने 8 जनवरी को परिमंडल-9 के पुलिस उपायुक्त कृष्णकांत उपाध्याय की देखरेख में वर्सोवा पुलिस को विदेशी महिला की बच्ची को ढूंढने का निर्देश दिया। पुलिस ने पिता के साथ बच्ची को ढूंढ निकाल और अदालत में पेश किया। वकील सुरवसे ने अदालत से बेटी को अपने पास रखने का अनुरोध किया। अदालत ने दोनों पक्षों की दलीलें सुनने के बाद विदेशी महिला के पक्ष में अपना फैसला सुनाया। वकील अमित सुरवसे ने नीदरलैंड की विदेशी महिला से शादी किया था। उनसे पांच साल की बच्ची है। उनका तलाक हो गया है। बच्ची अपनी मां के साथ नीदरलैंड में रहती है।

Bombay HC raps man for false claim of racial discrimination by Dutch wife's kin

The court was hearing a petition filed by the woman, a Dutch national, seeking custody of her five-year-old daughter to be handed over to her.

Mumbai: The Bombay High Court has deprecated a man for claiming that he illegally brought his minor daughter to India from the Netherlands last year as both of them faced racial discrimination there by the family members of his estranged wife, a Dutch national.

In an order passed on Wednesday, a division bench of Justice A S Gadkari and Shyam Chandak said the plea of racial discrimination adopted by the man was "completely hollow and was a sham plea".

"India is undoubtedly known for its zero tolerance policy towards racial discrimination. The man has lowered the image of India and its citizens in the view of the petitioner (woman) and her fellow nationals," the court said.

Also Read: [Delhi HC rejects AAP leader Sanjay Singh's bail plea in money laundering case](#)

Such conduct was unethical, it added.

The court was hearing a petition filed by the woman, a Dutch national, seeking custody of her five-year-old daughter to be handed over to her.

As per the plea, the woman's former husband violated an order passed by a court in the Netherlands, which had granted her custody of the child. The man allegedly brought the child to India from the Netherlands in August 2023 and refused to return the child to the woman. He later filed a petition in the family court in Mumbai seeking permanent custody of the child.

The man had claimed that he and his daughter were subjected to racial discrimination and hence the child has now developed a fear and was not willing to return to the Netherlands.

The high court noted that this claim of racial discrimination was a 'sheer afterthought' and adopted by the man only to defeat the orders passed by the Dutch court.

The bench directed the man to hand over custody of the child to her mother so that she could be taken back to the Netherlands.

The court noted that if the return of the child to Netherlands to her mother was declined, then there was a possibility of polluting the mind and thoughts of the child against her mother to such an extent that the child would think her own mother deserted her.

"This is the doctrine of 'Parental Alienation Syndrome' that is the efforts made by one parent to get the child to give up his/her own positive perceptions of the other parent," the HC said.

It added that this puts the child in the middle of a loyalty contest and then makes the child to blame one parent.

The woman in her plea said the child has been living with her since birth in the Netherlands and that the child too is a Dutch national by birth.

The bench in its order said the overriding consideration in such cases must be the interest and welfare of the child and while deciding this, the view of one parent alone cannot be taken into consideration.

"The court should decide the issue of custody only on the basis of what is in the best interest of the child," the HC said.

The bench noted that the child in the present case was born in the Netherlands and has been living there with her mother till she was brought to India by her father last year.

"There is great physical, mental and emotional bonding between the mother and child. Both need the company of each other. This is very important for a girl child of the tender age of five years," the HC said.

The court noted that the child has been in India only since August last year and has not set her roots here yet.

The bench concluded that the man violated the order passed by the court in the Netherlands and detained the child with him illegally. "Therefore, the child deserves to return to her country," it said.

The high court said the man and the woman shall abide by the order passed by the Dutch court with regard to visitation rights.

"The child is of a tender age and thus requires equal support of both parents to see that she grows under the umbrella of diverse tradition and culture of the two countries and steps into the world as a respectable person," the HC said.

FREE PRESS JOURNAL 9 FEBRUARY, 2024

'Zero-Tolerance Towards Racial Discrimination In India,' Says Bombay High Court

The court said that the plea of racial discrimination adopted by the man was “completely hollow and a sham”.

The Bombay High Court has frowned upon a 44-year-old man for claiming that he illegally brought his minor daughter to India from the Netherlands as they both were facing “racial discrimination” there by the family members of his former wife, a Dutch national. The court directed the man to return the five-year-old to her mother.

The court said that India is known for its zero-tolerance policy towards racial discrimination, but the plea of racial discrimination adopted by the man was “completely hollow and a sham”.

Court's observations

“India is undoubtedly known for its zero tolerance policy towards racial discrimination. The Respondent No.2 (man), however, had the audacity to take the shelter of the defence of racial discrimination; that too against the Petitioner, who once was his wife and spent considerable years with him,” a division bench of Justices Ajey Gadkari and Shyam Chandak said on Wednesday.

“This way, the Respondent No.2 has lowered the image of India and its citizens in the view of Petitioner and her fellow nationals. We record our displeasure for this conduct as according to us, it is unethical,” the bench added.

Petition by woman seeking custody of five-year-old daughter

The court was hearing a petition filed by the woman seeking custody of her five-year-old daughter alleging that her former husband violated an order passed by a court in the Netherlands which had granted her child's custody.

In August 2023, he allegedly brought the child to India and refused to return the child. He later filed a petition in the family court in Mumbai seeking permanent custody of the child. He contended that he and his daughter were subjected to racial discrimination and hence the child has now developed a fear and was not willing to return to the Netherlands.

Refusing to believe his contention, the bench said that the claim of racial discrimination was a "sheer afterthought" and adopted by the man only to defeat the orders passed by the Dutch court.

Bench directs man to hand over custody of child

The bench directed the man to hand over custody of the child to her mother so that she could be taken back to Netherlands. It noted that if the child was not returned to the Netherlands to her mother then there was a possibility of polluting the child's mind against her mother.

"This is the doctrine of 'Parental Alienation Syndrome' that is the efforts made by one parent to get the child to give up his/ her own positive perceptions of the other parent," the bench said in a detailed order. This puts the child in the middle of a loyalty contest and then makes the child to blame one parent.

The woman emphasised that the child had been living with her since birth and that she is a Dutch national by birth.

Court's remarks

The court remarked that the overriding consideration in such cases must be the interest and welfare of the child and while deciding this, the view of one parent alone cannot be taken into consideration.

"There is great physical, mental and emotional bonding between the mother and child. Both need the company of each other. This is very important for a girl child of the tender age of five years," the judges

underlined. Besides, the child has been in India only since August last year and has not set her roots here yet.

Concluding that the man violated the order of the court in the Netherlands, the court said: "Therefore, the child deserves to return to her country." They have also asked both the parents to abide by the conditions imposed by the court in the Netherlands with regard to access to child.

"The child is of a tender age and thus requires equal support of both parents to see that she grows under the umbrella of diverse tradition and culture of the two countries and steps into the world as a respectable person," the judges underscored. Advocates Anil Malhotra, Anagha Nimbkar, Shreya Shrivastav, Gulistan Dubash and Durgesh Jaiswal appeared for the mother. Advocate Mihir Desai appeared for the father. State was represented by Additional Public Prosecutor SV Gavand. Advocate Subodh Desai was appointed as *amicus curiae* (friend of court).

FEBRUARY 09, 2024

HC allows Dutch woman to take 5-year-old daughter back to Netherlands

The girl was allegedly 'illegally detained' by her father after bringing her on a 15-day visit to the city

MUMBAI: The Bombay high court on Wednesday allowed a 37-year-old Dutch woman to take her 5-year-old daughter, who had been 'illegally detained' in the city by her ex-husband, back to Netherlands, observing that the best interests of the child would be served best in the north-western European country.

A division bench of justice Ajay Gadkari and justice Shyam Chandak, however, allowed the woman's ex-husband, a city-based lawyer, to contact the child by the terms of orders of Dutch courts.

The couple married in July 2013 in Netherlands by the Dutch laws and the girl was born on December 14, 2018. However, due to incompatibility and differences, the couple decided to part ways and

applied for divorce. Their marriage was dissolved on April 28, 2023, by the District Court of East Brabant, Hertogenbosch in Netherlands. The court also held that the mother's residence would be the main residence for the child and the husband was given visitation rights.

In August last year, the father brought the girl child to the city for two weeks, under permission from the court of East Brabant, and was supposed to return to Netherlands on or before August 19. The 44-year-old city resident, however, did not return to Netherlands on the scheduled date and stopped responding to telephone/WhatsApp calls of his ex-wife.

On petitioner's mother on September 7 moved to the District Court of Hague, seeking the immediate return of the child to Netherlands. Though her ex-husband contested the plea, the court on November 9, directed him to bring back the child to Netherlands or hand over her custody to the woman with necessary travel documents.

After the ex-husband failed to comply with the Hague court order, the woman came to India and filed a Habeas Corpus petition before the high court through advocate Durgesh Jaiswal, claiming that her ex-husband had illegally detained the 5-year-old girl.

During the pendency of her petition, the girl child was interviewed by the judges, and on January 8, the court directed her lawyer father to hand over her child to her mother. Instead of handing over custody of the child, the lawyer fled from the city with her.

Eventually, on January 9, the Versova police traced him to Daman and produced the child before the high court. On January 11, the child was handed over to her mother.

Her counsel, advocate Anil Malhotra submitted that the action on the part of the man in uprooting and disrupting the child was extremely detrimental and damaging to her best interest and welfare. The Chandigarh-based lawyer also pointed out, how the father's action had deprived the woman of her right over the child, as a mother and natural guardian.

The woman's ex-husband resisted the petition, claiming that after their marriage they resided in Mumbai for around 3 years and the woman was also well-settled in the city. He added that she wanted to reside in Mumbai, but because of undue interference by her mother, they went back to Netherlands in 2021 where he and the girl child were insulted by his in-laws.

The court accepted arguments advanced by advocate Malhotra that the sudden disconnect of the child from her native place was "unjustifiable because she is a Dutch National." The court said she was less than five years of age, and her main residence was the place of her mother where she was admitted to a school.

The bench said being a Dutch national, the child would get the benefits available to a domicile of the Netherlands and this would be certainly in her best interest.

THE BUSINESS GUARDIAN | FEBRUARY 10, 2024

HC grants permission for Dutch woman to take 5-year-old daughter back to Netherlands

The Bombay High Court has granted approval to a 37-year-old Dutch woman to return to the Netherlands with her 5-year-old daughter. The child had been reportedly 'illegally detained' in Mumbai by her ex-husband, a city-based lawyer.

Read more at: <https://www.magzter.com/stories/newspaper/The-Business-Guardian/HC-GRANTS-PERMISSION-FOR-DUTCH-WOMAN-TO-TAKE-5YEAROLD-DAUGHTER-BACK-TO-NETHERLANDS>

HC raps man for false claim that he, minor daughter faced racial discrimination by Dutch wife's kin

The Bombay High Court has deprecated a man for claiming that he illegally brought his minor daughter to India from the Netherlands last year as both of them faced racial discrimination there by the family members of his estranged wife, a Dutch national.



[PTI](#)

Updated On Feb 8, 2024 at 02:48 PM IST

The Bombay High Court has deprecated a man for claiming that he illegally brought his minor daughter to [India](#) from the [Netherlands](#) last year as both of them faced racial discrimination there by the family members of his estranged wife, a Dutch national. A division bench of Justices [A S Gadkari](#) and [Shyam Chandak](#) in an order passed on Wednesday said the plea of racial discrimination adopted by the man was "completely hollow and was a sham plea". "India is undoubtedly known for its zero tolerance policy towards racial discrimination.

The man has lowered the image of India and its citizens in the view of the petitioner (woman) and her fellow nationals," the court said. Such conduct was unethical, it added. The court was hearing a petition filed by the woman, a Dutch national, seeking custody of her five-year-old daughter to be handed over to her. As per the plea, the woman's former husband violated an order passed by a court in the Netherlands, which had granted her custody of the child.

The man allegedly brought the child to India from the Netherlands in August 2023 and refused to return the child to the woman. He later filed a petition in the family court in Mumbai seeking permanent custody of the child. The man had claimed that he and his daughter were subjected to racial discrimination and hence the child has now developed a fear and was not willing to return to the Netherlands. The high court noted that this claim of racial discrimination was a "sheer afterthought" and adopted by the man only to defeat the orders passed by the Dutch court.

The bench directed the man to hand over custody of the child to her mother so that she could be taken back to the Netherlands. The court noted that if the return of the child to Netherlands to her mother was declined, then there was a possibility of polluting the mind and thoughts of the child against her mother to such an extent that the child would think her own mother deserted her.

"This is the doctrine of 'Parental Alienation Syndrome' that is the efforts made by one parent to get the child to give up his/her own positive perceptions of the other parent," the HC said. It added that this puts the child in the middle of a loyalty contest and then makes the child to blame one parent. The woman in her plea said the child has been living with her since birth in the Netherlands and that the child too is a Dutch national by birth.

The bench in its order said the overriding consideration in such cases must be the interest and welfare of the child and while deciding this, the view of one parent alone cannot be taken into consideration. "The court should decide the issue of custody only on the basis of what is in the best interest of the child," the HC said.

The bench noted that the child in the present case was born in the Netherlands and has been living there with her mother till she was brought to India by her father last year. "There is great physical, mental and emotional bonding between the mother and child. Both need the company of each other. This is very important for a girl child of the tender age of five years," the HC said. The court noted that the child has been in India only since August last year and has not set her roots here yet.

The bench concluded that the man violated the order passed by the court in the Netherlands and detained the child with him illegally. "Therefore, the child deserves to return to her country," it said. The high court said the man and the woman shall abide by the order passed by the Dutch court with regard to visitation rights. "The child is of a tender age and thus requires equal support of both parents to see that she grows under the umbrella of diverse tradition and culture of the two countries and steps into the world as a respectable person," the HC said.

INDIA TODAY 9 FEBRUARY, 2024

Bombay High Court rubbishes father's claims about discrimination in Netherlands

The Bombay High Court was hearing a petition filed by the Dutch woman, claiming that her estranged husband, an Indian citizen, had illegally detained their child.

While permitting a Dutch mother to take her 5-year-old daughter to the Netherlands, the Bombay High Court has deprecated the 44-year-old father of the child for claiming that he illegally brought his minor daughter to India from Europe, citing racial discrimination faced by both of them from the family members of his ex-wife's family.

A bench of Justices Ajay Gadkari and Shyam Chandak was hearing a petition filed by the Dutch woman, claiming that her estranged husband, an Indian citizen, had illegally detained their child. The bench stated that the plea of racial discrimination adopted by the man was “completely hollow and was a sham plea.”

"India is undoubtedly known for its zero-tolerance policy towards racial discrimination. However, the husband had the audacity to take shelter in the defence of racial discrimination, against the Petitioner, who once was his wife and spent considerable years with him. This way, he has tarnished the image of India and its citizens in the view of the Petitioner and her fellow nationals. We record our displeasure with this conduct as, according to us, it is unethical," the bench said.

According to the woman's plea, her former husband violated an order passed by a Dutch court which granted her custody of the child. The man allegedly brought the child to India from the Netherlands in August 2023 and refused to return the child to the woman. He later filed a petition in the family court in Mumbai seeking permanent custody of the child.



Ontvoerd meisje (5) moet terug naar Nederland, oordeelt rechter India

9 februari 2024 08:50Aangepast 9 februari 2024 09:33



-
-
-
-

Een meisje van 5 dat door haar vader was ontvoerd naar de Indiase miljoenenstad Mumbai, moet terug naar haar moeder in Nederland. Dat heeft het hooggerechtshof van Mumbai bepaald. Het meisje werd door haar 44-jarige vader illegaal gevangengehouden in Mumbai. Het hof zegt dat ze beter af is als ze in Nederland opgroeit.

Na een huwelijk van bijna tien jaar sprak de rechtbank in Den Bosch vorig jaar april de scheiding uit tussen de ouders van het meisje. De moeder zou de voogdij krijgen, haar vader bezoekrechten.

Met toestemming van de rechtbank in Den Bosch gingen vader en dochter afgelopen augustus op vakantie naar Mumbai, waar de 44-jarige vader oorspronkelijk vandaan komt. Hij keerde niet meer terug naar Nederland met zijn dochter: telefoontjes werden genegeerd en tekstberichten bleven onbeantwoord.

Meer ouders te maken met ontvoering kind

In 2022 werden aanzienlijk meer kinderen ontvoerd dan het jaar daarvoor, [bleek vorig jaar uit cijfers van het Centrum Internationale Kinderontvoering](#).

Het aantal meldingen van internationale kinderontvoeringen stond in 2022 op 292 kinderen, tegenover 229 ontvoerde kinderen in 2021. Dit is een stijging van 27,5 procent.

De moeder spande daarop eerst een zaak aan bij de rechtbank van Den Haag, die haar in het gelijk stelde, en reisde met dat vonnis naar India.

Daar voerde de advocaat van de vrouw aan dat de man het welzijn van zijn dochter schaadde door haar mee te nemen naar een voor haar vreemd land. Verder wees hij erop dat een Nederlandse rechter de voogdij al had toegewezen aan de moeder. Het hooggerechtshof van Mumbai stelde de moeder in het gelijk. Moeder en dochter zijn inmiddels met elkaar herenigd, [meldt de Hindustan Times](#).



Lees ook:

[5 jaar later: in Amsterdam ontvoerde peuter Insiya nog steeds vast in India](#)

De zaak doet denken aan de ontvoering van de destijds 2-jarige Insiya, het meisje dat in 2016 in opdracht van haar vader vanuit Amsterdam werd ontvoerd naar India. Sindsdien weigert hij het meisje aan Nederland over te dragen. De moeder zegt geen contact met haar te kunnen krijgen. Haar vader is in oktober 2020 bij verstek veroordeeld tot 9 jaar gevangenisstraf voor zijn rol bij de ontvoering van zijn dochter. Insiya is inmiddels 9 jaar.

Kidnapped girl (5) must return to the Netherlands, Judges in India rule

A 5-year-old girl who was kidnapped by her father to the Indian metropolis of Mumbai, must be returned to her mother in the Netherlands. The Mumbai High Court has ruled this. The girl was held illegally in Mumbai by her 44-year-old father. The court says she would be better off if she grew up in the Netherlands.

After almost ten years of marriage, the court in Den Bosch pronounced the divorce between the girl's parents in April last year. The mother would get custody, her father visitation rights.

With permission from the court in Den Bosch, father and daughter went on holiday to Mumbai last August, where the 44-year-old father is originally from. He never returned to the Netherlands with his daughter: phone calls

were ignored and text messages went unanswered.

More parents dealing with child abduction

Significantly more children were abducted in 2022 than the year before, [figures from the Center for International Child Abduction showed last year](#) .

The number of reports of international child abductions stood at 292 children in 2022, compared to 229 abducted children in 2021. This is an increase of 27.5 percent.

The mother then first filed a case with the court in The Hague, which ruled in her favor, and traveled to India with that verdict.

There, the woman's lawyer argued that the man harmed his daughter's well-being by taking her to a foreign country. He further pointed out that a Dutch judge had already awarded custody to the mother. The Mumbai High Court ruled in favor of the mother. Mother and daughter have now been reunited, [reports the Hindustan Times](#) .

The case is reminiscent of the kidnapping of the then 2-year-old Insiya, the girl who was kidnapped from Amsterdam to India in 2016 on behalf of her father. Since then he has refused to hand the girl over to the Netherlands. The mother says she cannot get in touch with her. Her father was sentenced in absentia to 9 years in prison in October 2020 for his role in the kidnapping of his daughter. Insiya is now 9 years old.

rtl nieuws Netherlands

FEBRUARY 9, 2024

Kidnapped girl (5) must return to the Netherlands, Judges in India rule

A 5-year-old girl who was kidnapped by her father to the Indian metropolis of Mumbai, must be returned to her mother in the Netherlands. The Mumbai High Court has ruled this. The girl was held illegally in Mumbai by her 44-year-old father. The court says she would be better off if she grew up in the Netherlands.

After almost ten years of marriage, the court in Den Bosch pronounced the divorce between the girl's parents in April last year. The mother would get custody, her father visitation rights.

With permission from the court in Den Bosch, father and daughter went on holiday to Mumbai last August, where the 44-year-old father is originally from. He never returned to the Netherlands with his daughter: phone calls were ignored and text messages went unanswered.

More parents dealing with child abduction

Significantly more children were abducted in 2022 than the year before, [figures from the Center for International Child Abduction showed last year](#) .

The number of reports of international child abductions stood at 292 children in 2022, compared to 229 abducted children in 2021. This is an increase of 27.5 percent.

The mother then first filed a case with the court in The Hague, which ruled in her favor, and traveled to India with that verdict.

There, the woman's lawyer argued that the man harmed his daughter's well-being by taking her to a foreign country. He further pointed out that a Dutch judge had already awarded custody to the mother. The Mumbai High Court ruled in favor of the mother. Mother and daughter have now been reunited, [reports the Hindustan Times](#) .

The case is reminiscent of the kidnapping of the then 2-year-old Insiya, the girl who was kidnapped from Amsterdam to India in 2016 on behalf of her father. Since then he has refused to hand the girl over to the Netherlands. The mother says she cannot get in touch with her. Her father was sentenced in absentia to 9 years in prison in October 2020 for his role in the kidnapping of his daughter. Insiya is now 9 years old.

LATESTLY 11 FEBRUARY, 2024

'He Has Lowered Image of India': Bombay High Court Grants Custody of Five-Year-Old Child to Dutch Mother, Criticises Indian Father for Alleging Racial Discrimination

While granting the custody of the child to the mother, the division bench of Justice AS Gadkari and Shyam Chandak also rejected the Indian father's claim that he and the child were subjected to racial discrimination by his estranged Dutch wife.

The Bombay High Court recently granted custody of a five-year-old child to her Dutch mother after the mother claimed that her former husband, who is an Indian citizen, had illegally detained their child. While granting the custody of the child to the mother, the division bench of Justice AS Gadkari and Shyam Chandak also rejected the Indian father's claim that he and the child were subjected to racial discrimination by his estranged Dutch wife. "India is undoubtedly known for its zero-tolerance policy towards racial discrimination. The husband, however, had the audacity to take the shelter of the defence of racial discrimination; that too against the Petitioner, who once was his wife and spent considerable years with him. This way, he has lowered the image of India and its citizens in the view of Petitioner and her fellow nationals. We record our displeasure for this conduct as according to us, it is unethical," the court said. ['Sex on Genuine Promise of Marriage Not Rape If Promise Broken Due to Parents' Disapproval': Bombay High Court Acquits Man Accused of Raping Woman.](#)

THE LAW ADVICE 8 FEBRUARY, 2024



08 Feb 2024

Bombay HC Deprecates Man's Claim of Illegally Bringing Daughter from Netherlands Due to Alleged Racial Discrimination

The Bombay High Court has criticized a man who admitted to unlawfully bringing his underage daughter to India from the Netherlands last year. He claimed they faced racial discrimination from the relatives of his estranged wife, who is a Dutch national.

In an order issued on Wednesday, a division bench comprising **Justices A. S. Gadkari and Shyam Chandak** stated that the man's assertion of racial discrimination was deemed "entirely baseless and insincere."

"India is undoubtedly known for its zero-tolerance policy towards racial discrimination. The man has lowered the image of India and its citizens in the view of the petitioner (woman) and her fellow nationals," the court said.

The court was considering a petition filed by the woman, who is a Dutch national, requesting custody of her five-year-old daughter to be granted to her.

According to the plea, the woman's ex-husband disobeyed a court order issued in the Netherlands, which had awarded her custody of the child. Allegedly, the man transported the child from the Netherlands to India in August 2023 and declined to hand the child over to the woman. Subsequently, he filed a petition in the family court in Mumbai seeking permanent custody of the child.

The man asserted that he and his daughter experienced racial discrimination, resulting in the child developing fear and reluctance to return to the Netherlands

The high court observed that the man's assertion of racial discrimination was merely an attempt to undermine the rulings of the Dutch court, describing it as a "purely concocted" excuse.

The bench instructed the man to surrender custody of the child to her mother, facilitating her return to the Netherlands

The court emphasized that denying the child's return to her mother in the Netherlands could potentially lead to the child developing negative feelings towards her mother, possibly due to influence or manipulation, and even believing falsely that her mother had abandoned her.

In her plea, the woman stated that the child has resided with her in the Netherlands since birth and is also a Dutch national by birth. The bench emphasized in its order that the paramount concern in such situations should be the well-being and welfare of the child. It stressed that the perspective of just one parent cannot be solely considered when making such decisions.

"The court should decide the issue of custody only on the basis of what is in the best interest of the child," the HC said.

The bench noted that the child in the present case was born in the Netherlands and has been living there with her mother till she was brought to India by her father last year.

"There is great physical, mental and emotional bonding between the mother and child. Both need each other's company. This is very important for a girl child of the tender age of five years," the HC said.

The court mentioned that the child has been in India for a relatively short period, having arrived only in August of the previous year, and therefore has not established strong ties to India.

The bench concluded that the man had breached the order issued by the Dutch court by unlawfully detaining the child with him. Consequently, the court asserted, "Therefore, the child deserves to return to her country."

The high court said the man and the woman shall abide by the order passed by the Dutch court with regard to visitation rights.

"The child is of a tender age and thus requires equal support from both parents to see that she grows under the umbrella of

the diverse traditions and cultures of the two countries and steps into the world as a respectable person," the HC said.

LAW BEAT 8 FEBRUARY, 2024

Bombay High Court Grants Child's Custody To Dutch Mother, Rejects Racial Discrimination Contention Of Indian Father

Synopsis

The division bench, while ordering the handing over of custody to the wife, stated that the sudden disconnect of the child from her native country, the Netherlands, is unjustifiable because she is a Dutch national. Furthermore, she was less than five years of age at that time, and her main residence was with her mother, where she was studying in school.

The Bombay High Court recently observed that India is known for its zero-tolerance policy towards racial discrimination in a petition filed by a Dutch mother seeking custody of her 5-year-old child, who her ex-husband illegally detained.

“India is undoubtedly known for its zero tolerance policy towards racial discrimination. The Respondent No.2, however, had the audacity to take the shelter of the defence of racial discrimination; that too against the Petitioner, who once was his wife and spent considerable years with him. This way, the Respondent No.2 has lowered the image of the India and its citizens in the view of Petitioner and her fellow nationals. We

record our displeasure for this conduct as according to us, it is unethical,” the order reads.

A division bench of the high court, comprising Justice AS Gadkari and Justice Shyam Chandak, heard a petition filed by a Dutch wife who filed a habeas corpus petition against the illegal detention by her husband.

The husband, an Indian national, married the Dutch woman on July 5, 2013, after which he was registered as a Dutch resident.

On December 14, 2018, a girl child was born to the couple. Following their differences, they filed a petition in the District Court of East Brabant, Hertogenbosch, Netherlands, for divorce.

The divorce was granted on April 28, 2023, and the judgment stated that the child would be in the mother's custody.

In July 2023, the court granted permission to the husband to travel to India with the child from August 5, 2023, to August 19, 2023. Despite the wife handing over the OCI Card of the child, the husband obtained a new passport with the intention of not returning to the Netherlands.

When the husband did not return, the wife approached the District Court of Hague. The Dutch court directed the husband to bring back the child to the Netherlands or hand it over to the wife. As the husband failed to comply with these directives, the wife approached the Bombay High Court.

The husband contended before the high court that the wife's parents subjected the child to racial discrimination and abuse based on her complexion. He added that they even told her that he had abandoned her, and she was not allowed to learn Hindi/Marathi. Thus, they wanted to sever her ties with India.

The wife contended that the parties were married according to the laws of the Netherlands and that the rights of custody over the child were to be determined by the Dutch Court. She added that the husband also filed a petition before the Family Court in Mumbai seeking custody, emphasizing that the detention of the child in India is completely illegal.

She also contended that for a girl child of 5 years, the tender age requires the lap, tender care, love, and custody of the mother, which is very essential.

In its order, the high court noted that the plea of racial discrimination was not raised until the husband filed an appeal in the Dutch Court on January 3, 2024, against the order dated November 9, 2023, requiring him to return with the child to the Netherlands. The bench said that the said defense was taken at a very belated stage and was as vague as possible.

The division bench, while ordering the handing over of custody to the wife, stated that the sudden disconnect of the child from her native country, the Netherlands, is unjustifiable because she is a Dutch national. Furthermore, she was less than five years of age at that time, and her main residence was with her mother, where she was studying in school.

However, the high court allowed the husband to meet the child if he wished to do so thrice a week for 2 hours at a predetermined place. The husband was also allowed to interact with the child for an hour on Friday, Saturday, and Sunday through video conferencing.

Case title: QRP vs State of Maharashtra & Ors

LAW TREND 8 FEBRUARY, 2024

Bombay High Court Criticizes Man for Falsely Claiming Racial Discrimination in Custody Case

The Bombay High Court has strongly reprimanded a man for his baseless allegations of racial discrimination in the Netherlands by his Dutch wife's family, used as a pretext to illegally bring his minor daughter to India. Justices A S Gadkari and Shyam Chandak dismissed the man's claims as "completely hollow" and a "sham plea," emphasizing that such actions tarnish India's reputation and its stance against racial discrimination.

The controversy arose from a petition by the Dutch national mother, seeking the return of her five-year-old daughter, whom the father had taken from the Netherlands to India in August 2023, contrary to a Dutch court's custody order favoring the mother. The father's subsequent petition in Mumbai for permanent custody was underpinned by allegations of racial discrimination and the child's purported fear of returning to the Netherlands.

The High Court, however, saw these claims as an afterthought and a strategy to circumvent the Dutch court's ruling. The bench ordered the immediate return of the child to her mother, highlighting the potential harm of "Parental Alienation Syndrome" where the child could be led to believe that her mother had abandoned her.

Emphasizing the child's best interests and welfare, the court noted the strong bond between the mother and daughter, underscoring the importance of their reunion, especially considering the child's young age and her brief stay in India. The court also instructed adherence to the Dutch court's visitation rights order, advocating for the child's growth under the influence of both her parents' diverse cultural backgrounds.

LAW-TREND 8 FEBRUARY, 2024

बॉम्बे हाईकोर्ट ने कस्टडी मामले में नस्लीय भेदभाव का झूठा दावा करने वाले व्यक्ति की आलोचना की

बॉम्बे हाईकोर्ट ने एक व्यक्ति को उसकी डच पत्नी के परिवार द्वारा नीदरलैंड में नस्लीय भेदभाव के बेबुनियाद आरोपों के लिए कड़ी फटकार लगाई है, जिसका इस्तेमाल उसने अपनी नाबालिग बेटी को अवैध रूप से भारत लाने के बहाने के रूप में किया था। न्यायमूर्ति ए एस गडकरी और न्यायमूर्ति श्याम चांडक ने उस व्यक्ति के दावों को “पूरी तरह से खोखला” और “दिखावटी याचिका” बताते हुए खारिज कर दिया, और इस बात पर जोर दिया कि इस तरह की हरकतें भारत की प्रतिष्ठा और नस्लीय भेदभाव के खिलाफ उसके रुख को खराब करती हैं।

विवाद डच राष्ट्रीय मां की एक याचिका से उत्पन्न हुआ, जिसमें उन्होंने अपनी पांच वर्षीय बेटी की वापसी की मांग की थी, जिसे पिता अगस्त 2023 में नीदरलैंड से भारत ले गए थे, जो मां के पक्ष में डच अदालत के कस्टडी आदेश के विपरीत था। स्थायी कस्टडी के लिए मुंबई में पिता की बाद की याचिका नस्लीय भेदभाव के आरोपों और बच्चे के नीदरलैंड लौटने के कथित डर पर आधारित थी।

हालाँकि, हाईकोर्ट ने इन दावों को एक बाद के विचार और डच अदालत के फैसले को दरकिनार करने की रणनीति के रूप में देखा। पीठ ने “माता-पिता अलगाव सिंड्रोम” के संभावित नुकसान पर प्रकाश डालते हुए बच्चे को तुरंत उसकी मां के पास लौटाने का आदेश दिया, जहां बच्चे को यह विश्वास दिलाया जा सकता है कि उसकी मां ने उसे छोड़ दिया है।

बच्चे के सर्वोत्तम हितों और कल्याण पर जोर देते हुए, अदालत ने मां और बेटी के बीच मजबूत बंधन पर ध्यान दिया, उनके पुनर्मिलन के महत्व को रेखांकित किया, खासकर बच्चे की कम उम्र और भारत में उसके संक्षिप्त प्रवास को देखते हुए। अदालत ने अपने माता-पिता दोनों की विविध सांस्कृतिक पृष्ठभूमि के प्रभाव में बच्चे के विकास की वकालत करते हुए डच अदालत के मुलाक़ात अधिकार आदेश का पालन करने का भी निर्देश दिया।

HC raps man for false claim that he, minor daughter faced racial discrimination by Dutch wife's kin

The Bombay High Court has deprecated a man for claiming that he illegally brought his minor daughter to India from the Netherlands last year as both of them faced racial discrimination there by the family members of his estranged wife, a Dutch national.

The Bombay High Court has deprecated a man for claiming that he illegally brought his minor daughter to India from the Netherlands last year as both of them faced racial discrimination there by the family members of his estranged wife, a Dutch national. A division bench of Justices A S Gadkari and Shyam Chandak in an order passed on Wednesday said the plea of racial discrimination adopted by the man was "completely hollow and was a sham plea". "India is undoubtedly known for its zero tolerance policy towards racial discrimination.

The man has lowered the image of India and its citizens in the view of the petitioner (woman) and her fellow nationals," the court said. Such conduct was unethical, it added. The court was hearing a petition filed by the woman, a Dutch national, seeking custody of her five-year-old daughter to be handed over to her. As per the plea, the woman's former husband violated an order passed by a court in the Netherlands, which had granted her custody of the child.

The man allegedly brought the child to India from the Netherlands in August 2023 and refused to return the child to the woman. He later filed a petition in the family court in Mumbai seeking permanent custody of the child. The man had claimed that he and his daughter were subjected to racial discrimination and hence the child has now developed a fear and was not willing to return to the Netherlands. The high court noted that this claim of racial discrimination was a "sheer afterthought" and adopted by the man only to defeat the orders passed by the Dutch court.

The bench directed the man to hand over custody of the child to her mother so that she could be taken back to the Netherlands. The court noted that if the return of the child to Netherlands to her mother was declined, then there was a possibility of polluting the mind and thoughts of the child against her mother to such an extent that the child would think her own mother deserted her.

"This is the doctrine of 'Parental Alienation Syndrome' that is the efforts made by one parent to get the child to give up his/her own positive perceptions of the other parent," the HC said. It added that this puts the child in the middle of a loyalty contest and then makes the child to blame one parent. The woman in her plea said the child has been living with her since birth in the Netherlands and that the child too is a Dutch national by birth.

The bench in its order said the overriding consideration in such cases must be the interest and welfare of the child and while deciding this, the view of one parent alone cannot be taken into consideration. "The court should decide the issue of custody only on the basis of what is in the best interest of the child," the HC said.

The bench noted that the child in the present case was born in the Netherlands and has been living there with her mother till she was brought to India by her father last year. "There is great physical, mental and emotional bonding between the mother and child. Both need the company of each other. This is very important for a girl child of the tender age of five years," the HC said. The court noted that the child has been in India only since August last year and has not set her roots here yet.

The bench concluded that the man violated the order passed by the court in the Netherlands and detained the child with him illegally. "Therefore, the child deserves to return to her country," it said. The high court said the man and the woman shall abide by the order passed by the Dutch court with regard to visitation rights. "The child is of a tender age and thus requires equal support of both parents to see that she grows under the umbrella of diverse tradition and culture of the two countries and steps into the world as a respectable person," the HC said.

LIVE LAW 9 FEBRUARY, 2024

Custody Battle: Bombay High Court Pulls Up Father For Making "Hollow Claims" Of Racial Discrimination Against Dutch Ex-Wife And In-Laws

The Bombay High Court took strong exception to a lawyer's accusation of racial discrimination against his ex-wife and her Dutch family in a child custody case. The court allowed the woman to take her daughter back to Netherlands in accordance with orders previously issued by a Dutch Court and the father's undertaking to that court. A division bench of Justices AS Gadkari and Shyam Chandak.

Custody Battle: बॉम्बे हाईकोर्ट ने पूर्व डच पत्नी और ससुराल वालों के खिलाफ नस्लीय भेदभाव के "खोखले दावे" करने के लिए पिता से नाराजगी जताई

बॉम्बे हाईकोर्ट ने बच्चे की हिरासत के मामले में वकील द्वारा अपनी पूर्व पत्नी और उसके डच परिवार के खिलाफ नस्लीय भेदभाव के आरोप पर कड़ी आपत्ति जताई।

अदालत ने महिला को एक डच अदालत द्वारा पहले जारी किए गए आदेशों और उस अदालत में पिता के वचन के अनुसार अपनी बेटी को नीदरलैंड वापस ले जाने की अनुमति दी।

जस्टिस एस गडकरी और जस्टिस श्याम चांडक की खंडपीठ ने माना कि पिता के उनके और उनकी पांच वर्षीय बेटी के खिलाफ नस्लीय भेदभाव के दावे "पूरी तरह से खोखले" और "दिखावटी याचिका" थे।

खंडपीठ ने कहा,

"भारत निस्संदेह नस्लीय भेदभाव के प्रति अपनी शून्य-सहिष्णुता नीति के लिए जाना जाता है। हालांकि, प्रतिवादी नंबर 2 (पिता) में नस्लीय भेदभाव की रक्षा का आश्रय लेने का साहस था, वह भी याचिकाकर्ता (मां) के खिलाफ, जो कभी उसकी पत्नी थी और उसके साथ काफी साल बिताए।"

अदालत ने कहा,

"इस तरह प्रतिवादी नंबर 2 ने याचिकाकर्ता और उसके साथी नागरिकों की नजर में भारत और उसके नागरिकों की छवि खराब की है। हम इस आचरण के लिए अपनी नाराजगी दर्ज करते हैं, क्योंकि हमारे अनुसार, यह अनैतिक है।"

पूरा मामला

हाइकोर्ट डच महिला द्वारा अपने पति पेशे से वकील और अपने ससुराल वालों के खिलाफ दायर हेबियस कॉर्पस याचिका पर विचार कर रहा था, जिसमें उसने अपनी 5 वर्षीय बेटी को नीदरलैंड में वापस लाने की मांग की थी। उसने दावा किया कि इस जोड़े की शादी 2013 में हुई, लेकिन अंततः 28 अप्रैल 2023 को नीदरलैंड में पूर्वी ब्रेबेंट के जिला न्यायालय ने उन्हें तलाक दे दिया।

तदनुसार, डच अदालत ने मां को बच्चे की प्राथमिक अभिरक्षा प्रदान की और पिता को उससे मिलने का अधिकार दिया। हाइकोर्ट के समक्ष मां ने आरोप लगाया कि उसका पूर्व पति (बच्चे का पिता और भारतीय नागरिक) अगस्त 2023 में 2 सप्ताह की छुट्टी के लिए बच्चे को भारत लाया लेकिन उसे वापस करने से इनकार किया।

उसने दावा किया कि उसकी बेटी विदेशी नागरिक है और उसे पिता और उसके परिवार ने अवैध रूप से हिरासत में रखा। इसके अलावा, भारत आने से ठीक पहले बच्चे के लिए लंबी वैधता वाला नया पासपोर्ट प्राप्त करने के पिता के आचरण से पता चलता है कि उसका बच्चे के साथ नीदरलैंड लौटने का कभी इरादा नहीं है।

पिता के सीनियर वकील मिहिर देसाई ने दलील दी कि उनके क्लाइंट और बच्चे को नस्लीय भेदभाव का शिकार होना पड़ा। इसलिए बच्चे के मन में मां और उसके माता-पिता के प्रति डर पैदा हो गया। इसलिए बच्चा वापस माँ के पास जाने को तैयार नहीं था। इसके अलावा, न तो पत्नी और न ही उसके परिवार ने बच्चे के संबंध में नीदरलैंड में उसका सहयोग किया। उन्होंने यह भी तर्क दिया कि 9 नवंबर 2023 के आदेश का उल्लंघन करने के लिए उच्च अदालतों द्वारा उनके खिलाफ मुकदमा चलाने और सजा दिए जाने की संभावना है, जिसके तहत उन्हें बच्चे को नीदरलैंड में वापस करने का निर्देश दिया गया।

विश्लेषण

अदालत ने कहा कि बच्ची पांच महीने पहले ही भारत आई थी और उच्च नागरिक है। अदालत ने तीन कारणों से पिता की नस्लीय भेदभाव की याचिका खारिज कर दी।

1. उन्होंने बच्चे को वापस करने के लिए नवंबर 2023 में पारित उच्च कोर्ट के आदेश के खिलाफ अपील में 2024 में ही यह याचिका उठाई थी। 2. विवाद अस्पष्ट है और 3. पिता ने स्वेच्छा से बच्चे का मुख्य निवास माँ के पास रखने पर सहमति व्यक्त की थी।

गौरतलब है कि याचिका दायर होने के बाद दिसंबर, 2023 में पिछली सुनवाई के दौरान पुलिस ने बच्चे के साथ पिता को पकड़ लिया था और जज के चैंबर में पेश किया। अदालत ने कहा कि बच्चा मां के साथ में बेहद सहज है।

अदालत ने आगे इस बात पर भी गौर किया कि मां और उसके रिश्तेदारों ने बच्चे तक पहुंचने के लिए भारत तक की यात्रा करते हुए कितनी तत्परता बरती।

अदालत ने कहा,

"यह आचरण याचिकाकर्ता की बच्ची 'एन' के प्रति सच्ची रुचि, उसके प्रति स्नेह और उनके गर्म और दयालु रिश्तों के बारे में बहुत कुछ बताता है।"

अदालत ने नोट किया कि कैसे पिता ने बच्चे को तुरंत भारत के स्कूल में भर्ती कराया और मुंबई में फैमिली कोर्ट में हिरासत के लिए याचिका दायर की, जिससे मां को भारत में मुकदमा करने के लिए मजबूर होना पड़ा। जब तक बच्ची भारत में जड़ें जमा लेगी, तब तक उसके लिए नीदरलैंड लौटना मुश्किल हो जाएगा।

खंडपीठ ने कहा,

“उसने उच्च अदालतों के आदेशों की अवहेलना की और बच्चे 'एन' को अपने देश में वापसी में बाधा डालने के लिए मुंबई में फैमिली कोर्ट के समक्ष याचिका दायर की। यह स्पष्ट रूप से इंगित करता है कि प्रतिवादी नंबर 2 बच्चे 'एन' को अपने उद्देश्य की पूर्ति के लिए भारत लाया, यानी बच्चे 'एन' को स्थायी रूप से अपने साथ रखने के लिए।”

तदनुसार, अदालत ने मां के पक्ष में आदेश पारित किया और उसे बच्चे को नीदरलैंड वापस ले जाने की अनुमति दी। जहां तक पिता से मुलाकात के अधिकार का सवाल है। अदालत ने 'माता-पिता के अलगाव सिंड्रोम' के दुष्प्रभावों पर ध्यान दिया और मां को उच्च न्यायालय के संयुक्त हिरासत आदेश का पालन करने का निर्देश दिया और पिता को बच्चे से ऑनलाइन और भौतिक पहुंच की अनुमति दी।

MID-DAY 8 FEBRUARY, 2024

Bombay HC raps man for false claim of racial discrimination by Dutch wife's kin amid custody battle

A division bench of Justices A S Gadkari and Shyam Chandak delivered an order on Wednesday dismissing the man's claim of racial discrimination as "completely hollow and a sham plea".

The **Bombay High Court** has chastised a father for fraudulently claiming racial prejudice as a reason for illegally transporting his minor daughter from the Netherlands to India last year, during a custody battle with his Dutch wife's family. A division bench of Justices A S Gadkari and Shyam Chandak delivered an order on Wednesday dismissing the man's claim of racial discrimination as "completely hollow and a sham plea," citing India's zero-tolerance policy towards racial discrimination. The court condemned the man's conduct, claiming that they harmed the image of India and its people, reported PTI.

"India is undoubtedly known for its zero tolerance policy towards racial discrimination. The man has lowered the image of India and its citizens in the view of the petitioner (woman) and her fellow nationals," the court said, per PTI report.

According to the report, the **court was hearing a petition** submitted by the lady, a Dutch national, seeking custody of her five-year-old daughter, who had been transported to India by her ex-husband in defiance of a court ruling in the Netherlands that granted custody to the mother. The man eventually sought permanent custody of the child in a Mumbai family court, citing racial discrimination to defend his actions.

The High Court dismissed the man's racial discrimination claim as an afterthought intended to avoid the Dutch court's rulings. It ordered the guy to hand over custody of the girl to her mother for repatriation to the Netherlands, the report stated.

The court, while passing the order, stated that it was important to put the child's wellbeing and interests first in custody disputes, citing the psychological harm caused by parental alienation.

"This is the doctrine of '**Parental Alienation Syndrome**' that is the efforts made by one parent to get the child to give up his/her own positive perceptions of the other parent. The court should decide the issue of custody only on the basis of what is in the best interest of the child," the HC said.

Noting the child's deep links with her mother and her unfamiliarity with India, the court determined that the man's actions violated the Dutch court's decision and resulted in the child's illegal imprisonment in India. "Therefore, the child deserves to return to her country," it said, per PTI report.

Reportedly, the HC ordered the man and woman to follow the visiting rights indicated in the Dutch court's judgement, emphasising the importance of both parents' support for the child's development in a nurturing environment rich in varied traditions and cultures.

"There is great physical, mental and emotional bonding between the mother and child. Both need the company of each other. This is very important for a girl child of the tender age of five years," the HC said.

"The child is of a tender age and thus requires equal support of both parents to see that she grows under the umbrella of diverse tradition and culture of the two countries and steps into the world as a respectable person," the HC said.

BNN FEBRUARY 08, 2024

Mumbai High Court Grants Dutch Mother Custody of 5-Year-Old

Daughter in Landmark Ruling

In a landmark decision, the Bombay High Court granted a 37-year-old Dutch woman the right to take her 5-year-old daughter back to the Netherlands following a tumultuous custody battle. The court dismissed the father's claims of abuse and emphasized the importance of the mother-child bond and the child's welfare above all else. The ruling serves as a powerful reminder of a mother's love and the pursuit of justice in the face of adversity.

In a landmark ruling, the Bombay High Court has granted a 37-year-old Dutch woman the right to take her 5-year-old daughter back to the Netherlands, following a tumultuous custody battle that began when her ex-husband, a Mumbai-based lawyer, allegedly detained their child in India.

A Cross-Continental Custody Battle

Who: The couple, both legal professionals, tied the knot in July 2013 and called it quits a decade later, on April 28, 2023. Their divorce decree mandated shared custody of their young daughter, with the mother's residence in the Netherlands designated as the child's primary home.

What: The father, who initially adhered to the custody agreement, brought the child to Mumbai in August for a brief, two-week visit.

However, when the agreed-upon date for the child's return to the Netherlands came and went, the mother found herself embroiled in a desperate and drawn-out legal battle to secure her daughter's safe return.

When: The mother initiated legal proceedings in late August, following her ex-husband's failure to honor their custody arrangement. The case culminated in the Bombay High Court's ruling on February 9, 2024.

Where: The dispute unfolded in the bustling metropolis of Mumbai, India, where the child was allegedly being held against her will and away from her primary caregiver.

A Father's Resistance and the Court's Resolve

Despite the mother's pleas and the clear stipulations of their divorce decree, the father refused to relinquish custody of their daughter. He argued that the child's welfare would be better served in India and made shocking allegations of racial discrimination and abuse by the mother's family in the Netherlands.

In a show of unwavering dedication to the child's wellbeing, the Bombay High Court conducted an extensive investigation into the matter, even interviewing the young girl to ascertain her wishes and gauge her emotional state. Ultimately, the judges dismissed the father's claims, emphasizing the importance of the mother-child bond and the child's welfare above all else.

A mother and child reunited

In a dramatic turn of events, the father fled with the child in a last-ditch effort to evade the court's ruling. Thanks to the tireless efforts of Mumbai law enforcement, the pair was located, and the child was safely returned to her mother's care.

With the court's decision upholding the Dutch court's custody arrangement, the mother and child can now begin the process of rebuilding their lives together in the Netherlands. The ruling sends a clear message that the welfare of the child is paramount, and no amount of legal maneuvering can suppress the fundamental right to a nurturing, loving relationship between a parent and their child.

As the mother and child prepare to embark on their journey back to the Netherlands, the Bombay High Court's decision serves as a poignant reminder of the indomitable power of a mother's love and the unyielding pursuit of justice in the face of seemingly insurmountable odds.