

ITEM NO.301

COURT NO.16

SECTION II-A

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

RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.) NO(S). 11625/2026

[Arising out of impugned final judgment and order dated 15-06-2026 in WP No. 478/2026 passed by the High Court of Judicature at Bombay at Goa]

HELENA ANNA MARIA LERSCH

PETITIONER(S)

VERSUS

STATE OF GOA & ANR.

RESPONDENT(S)

[TO BE TAKEN UP AT 3.00 P.M.]

IA No. 182777/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 182778/2026 - EXEMPTION FROM FILING O.T.

Date : 11-08-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH
HON'BLE MR. JUSTICE N.V. ANJARIA

For Petitioner(s) :Ms. Geeta Luthra, Sr. Adv.
Mr. Aadarsh Kothari, Adv.
Ms. Janvi Desai, Adv.
Ms. Prachi Sharma, Adv.
Ms. Shagufa Salim, AOR

For Respondent(s) :Mr. Abhay Anil Anturkar, Adv.
Mr. Dhruv Tank, Adv.
Mr. Sarthak Mehrotra, Adv.
Ms. Surbhi Kapoor, AOR
Mr. Uday Gautam, Adv.
Ms. Aradhya Srivastava, Adv.
Mr. Nakul Patwardhan, Adv.

Mr. Gopal Sankarnaryanana, Sr. Adv.
Ms. Malavika Rajkotia, Adv.
Ms. Purva Dua, Adv.
Mr. Mayank Grover, Adv.
Ms. Ritika Sethi, Adv.
Mr. Vishal Prasad, AOR

Mr. Sachin Sharma, Adv.
Ms. Madhulika Upadhyaya, AOR

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

1. This Court is presently seized of the matter pertaining to the rival claims of the parents in seeking custody of their child, who is about four years and one month old (born on 15.07.2022).

2. Admittedly, the mother and father are not married to each other. The relationship between the parties commenced sometime in January 2019 in the course of their professional interactions. Subsequently, a child was born on 15.07.2022 at *La Femme, Hospital, New Delhi, India*. The mother is a German citizen employed as a Vice President of Public Policy at TikTok, based in Singapore. The father is admittedly a practicing lawyer, and partner of a law firm, PLR Chambers, based in Delhi.

3. This Court is considering the rival claims of the parties for custody of their child. We have interacted with the mother and father in person on several occasions and have also observed the behavior of the child. Though certain allegations and counter-allegations have been made by the parties against each other, the child does not appear to have any aversion towards either of the parents. Both parents also appear to be doting parents. The child is presently in India. For varying periods of time, the child has stayed with the parents in India, including in Delhi and Goa, and has recently stayed with the father in Kolkata, which according to the mother was without her consent. The child has also travelled to and stayed in Singapore on a couple of occasions, along with his parents, and has travelled to and stayed in Germany with the family

of the mother.

4. The mother initiated writ proceedings before the High Court of Bombay at Goa Bench, in February 2026, seeking access to the child, as she claims to have been denied access to the child by the father without any reason. The matter is pending before the High Court of Bombay at Goa Bench out of which the present proceeding has arisen before this Court. The High Court initially granted the mother access to the child for 10 days, and thereafter passed certain orders for continued access to the child, the details of which may not be necessary to be referred to herein. After the filing of the writ proceedings before the High Court of Bombay at Goa, the father filed a petition under the Guardians and Wards Act, 1890 in the Court of the District Judge, South 24-Parganas at Alipore in April 2026, seeking protection and custody of the child. In the writ petition filed by the mother, she also sought custody of the child and permission to take the child to Singapore. The mother is keen to provide education to the child in Singapore, where she lived for the last several years. The child's admission to one of the best schools in Singapore is stated to be under process, where the mother would also be able to provide quality time to the child in Singapore. The father, on the other hand, seeks to retain custody of the child in India, which he claims to be the child's habitual residence and will be in the child's welfare where quality education can be provided.

5. In considering such rival claims and counter-claims, this Court has to keep the best interests of the child as the foremost

consideration, apart from the claim of the biological mother based on maternal love, affection and maternal instincts, as well as that of the father. In our view, this would obviously necessitate an evaluation of the various physical and mental conditions of all concerned, including the child, as neither have agreed to joint custody so far.

6. The father is primarily based in India because of his legal profession, while the mother is primarily based in Singapore because of her professional commitments. Therefore, if the child is to remain in India with the father, the mother will not have access to the child for a substantial period of time, except during occasional visits to India. Similarly, if the child is placed in Singapore as desired by the mother, the father will not be in a position to spend substantial time with the child, except during occasional visits. Under such circumstances, accepting the request of either parent would necessarily entail dislocation of the other parent for a substantial period of time. In absence of any agreement between the parties, the child has to remain either in India or in Singapore.

7. Under the circumstances, this Court has felt the necessity to seek the views of experts, particularly child psychologists/behavioural specialists, who may interact with the child as well as with the parents, either separately or together, as the psychologists/experts may deem fit and appropriate, and apprise this Court of their views. Thereafter, this Court will be in a better position to understand the psychological impact on the

child if either parent is unable to remain with the child for a prolonged period of time, and thereafter to determine the issue of custody of the child.

Therefore, this Court would like to ascertain the comparative psychological impact on the child of the two possible arrangements, namely, the child continuing to reside in India with the father in the absence of the mother for substantial period, or the child residing in Singapore with the mother in the absence of the father for substantial period, and which of these two arrangements would better serve the welfare and best interests of the child. The experts may accordingly examine the comparative merits, demerits and implications of both alternatives and place their considered opinion before this Court, keeping in mind that the child is only about 4 years old, the psychological harm it may cause if the child is deprived of the maternal love and affection for a prolonged period, as compared to deprivation of the love and affection of his father.

In either eventuality, the parent with whom the child does not ordinarily reside shall have reasonable and meaningful access to the child, including regular interaction through video conferencing and appropriate weekly/monthly visitation rights, as may be feasible and conducive to the best interests of the child.

8. From the records, we have also seen that the child has been looked after by nannies named, *Kusum* and *Anu*, for a substantial period of time. If the experts so desire, they may examine them also, as they may provide valuable insights into the behaviour,

predisposition of the child and the role of the parents.

9. The experts may also give their views as to whether they need to visit any particular place, either in India or in Singapore, as the case may be, to ascertain the proposed physical environment of the child where the child may be placed for the time being, for which the parties shall make the necessary arrangements for travel and stay and both the parties will share the expenses.

10. For the aforesaid purpose, we request the National institute of mental health and Neuro Sciences (hereinafter 'NIMHANS') at Bengaluru to immediately constitute a panel of experts consisting of such members as they may deem fit and appropriate who shall examine the child and parents, considering the aforementioned background and desire of the parents, keeping in mind the best interests of the child.

11. Considering the nature of the case and also the limitations on the mother to physically remain in India beyond a limited period, which have been appreciated by all, including the father, we would request the NIMHANS authorities to initiate the process of interaction without any further delay.

12. The parties have agreed to visit NIMHANS, Bengaluru, with the child immediately and shall report to NIMHANS at such time and place as may be required. If the NIMHANS authorities feel that it would be better for the parties to stay in their complex for some time, the parties shall cooperate and stay in the complex. Otherwise, they may stay at a hotel near NIMHANS, as per their convenience.

13. The mother has expressed that her child is very proficient in German language and that she would like to interact with the child in German during the interaction, and the experts may also interact with the child in German with the help of an expert/ interpreter.

14. Considering the nature of the case, we have requested Ms. Aishwarya Bhati, learned ASG, to assist the Court for expediting the constitution of the Board of experts by NIMHANS and also to render necessary assistance in requesting the services of a German-speaking person fluent in English, preferably a German national based in Bengaluru to assist the Board of Experts and also the mother and child.

15. NIMHANS is requested to submit a report before this Court in a sealed cover, preferably within a period of 2-3 weeks, from today. However, if the NIMHANS authorities feel the need for extension of time for this exercise, they may do so, which may be communicated to the learned ASG, Ms. Aishwarya Bhati, who will apprise this Court of such requirement. NIMHANS shall accordingly inform both parties through email as well as text messages on their mobile phones and shall also inform their respective lawyers/counsels regarding the date and time of their presence required at NIMHANS, Bengaluru.

16. This Court, for obvious reasons, is not going to make any observation at this stage regarding the claims and counter-claims or allegations/counter-allegations of the parties. However, to apprise the Board of Experts, of the background of the case, the

parties are at liberty to submit, in writing, their respective cases, with a short synopsis/list of dates, before the Medical Board of NIMHANS within two days from today. The same shall not exceed three pages/2000 words. Further, the parties shall also submit their updated concrete plan/ proposals regarding the custody and care of the child to the Board of Experts also, which was earlier directed to be submitted before this Court.

17. During this period, the interim custody of the child shall remain with the mother during her stay in India. Obviously, the father will also have access to the child at such convenient time and place, as may be agreed between the parents. The respective counsel of the parties may help in this regard to the parties. It goes without saying that, in the absence of the mother in India, the interim custody of the child will revert back to the father, till the mother returns to India who shall then take custody of the child again from the father until such order of the Court.

18. Regarding the pending guardianship petition bearing 'Act VIII Case No. 69 of 2026 (R-69)', before the Court of the District Judge, South 24-Parganas at Alipore, it has been agreed by the both parties that the same can conveniently be transferred to an appropriate Court in Delhi. The Chief Justice of the High Court of Delhi is requested to assign the matter to a specific Court in Delhi at the earliest. The concerned Court at Alipore is directed to send the records immediately to the High Court of Delhi, which is to be sent to the appropriate Court in Delhi as per the

directions of the Chief Justice of the High Court of Delhi.

19. The costs of the entire exercise involved in the assessment to be conducted by NIMHANS shall be borne by both parents equally, for which each parent shall deposit a sum of Rs.2 lakhs with the Registry of this Court within a period of 2 days. The expenses incurred by NIMHANS towards payment of fees to counsellors, experts and other ancillary expenditures shall be reimbursed from the amounts so deposited by the parties in this regard. Any additional amount, so required, shall be borne by the parties by depositing the same with the Registry of this Court, as may be intimated to the Registry by the NIMHANS.

20. The passport of the petitioner, *Helena Anna Maria Lersch*, may be returned to her so as to enable her to make the necessary arrangements for her travel in India and abroad, without any restrictions. However, the passport of the child shall remain with the Registry of this Court. The interim direction issued by this Court restraining the removal of the child from the country without the leave of the Court and other incidental directions issued earlier shall also remain in force, subject to what has been ordered today.

21. A copy of this order be furnished to Ms. Aishwarya Bhati, learned ASG, with a request that the authorities at NIMHANS be duly intimated and also for engagement of an interpreter.

22. We place on record our appreciation for the assistance rendered by Ms. Aishwarya Bhati, assisted by Mr. Sachin Sharma and Ms. Madhulika Upadhyay, learned counsels, on behalf of the Ministry of Health and Family Welfare, who have appeared at the request of this Court since the matter involves the participation of NIMHANS.

23. Counsels may apprise this Court on 14.08.2026 of the steps taken and developments in this regard in terms of the directions issued today. The parties may not be required to be present on 14.08.2026 in person unless they so desire.

24. The guardianship proceedings shall commence immediately without any loss of time by the concerned Court in Delhi on receipt of the records at the Court, and the Court is requested to proceed with the matter on a day-to-day basis, subject to other judicial commitments, and dispose of the same as expeditiously as possible. It is also made clear that the concerned Court shall proceed with the matter without being influenced by the proceedings and orders that have been passed by this Court in the present proceedings.

25. List the matter on 14.08.2026 at 2:00 p.m.

(JAGDISH KUMAR)
ASTT. REGISTRAR-cum-PS

(KOMAL)
COURT MASTER (NSH)