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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISIDCTION

FAMILY COURT APPEAL No. 146 OF 2013

Mr.Alessandro Portioli ...Appellant

Vs.

Mrs. Esmeria D'Souza ...Respondent

None appears for Appellant in FCA No. 146 of 2013

Mr.Mihir Desai – Amicus Curaie

Mr. Rohan Cama a/w. Edith Dey for Appellant in FCA 172 of 2013

Mr.Rui Rodrigues a/w. Mr. Dushyant Kumar for Union of India

CORAM : V. M. KANADE &
Dr. SHALINI PHANSALKAR-JOSHI, JJ.

DATE : OCTOBER 29, 2015

P.C. :

1. The Appellant and his counsel are absent and the undertaking which was given by the Appellant to this Court has been flouted with impunity. The Appellant, without seeking leave and permission of this Court has taken the child Puja (Emanuela) to Italy though the appeal was being part heard by this Court and kept for further hearing. Under these circumstances, the appeal cannot be heard.

2. The Appellant had challenged the order passed by the Family Court in a petition filed by him under section 39 (d) and (e) of the Guardian and Wards Act, 1890. The Appellant was seeking the

following reliefs:

“(a) The Respondent No.1 may be removed as Guardian as per the provisions under Section 39 (d) and (e) of the Guardians and Wards Act, 1890;

(b) The Petitioner may kindly be permitted to take minor PUJA to Italy to complete the adoption procedures and leave the country without the consent of Respondent No.1;”

This petition was disposed of as not maintainable.

3. Hence this appeal is dismissed for want of prosecution and also on account of breach of undertaking given by the Appellant to this Court.

4. It is clarified that no interim relief was granted by the Family Court in his petition in spite of any authority of law and in breach of the undertaking given by him to this Court, the Appellant has taken the girl to Italy and has obtained certain orders from the Juvenile Justice Court in Venice by suppressing the material facts and suppressing the proceedings which are pending before this Court.

5. Copy of the order passed by this Court be communicated to the Juvenile Justice Court of Venice in Italy. The FCA is dismissed and it

is formerly disposed of, however, the same is kept pending for compliance of the order passed by this Court. Stand over to 18th November, 2015 for compliance.

[Dr. SHALINI PHANSALKAR-JOSHI, J.]

[V. M. KANADE, J.]

Vaishali Tikam