

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

OP (FC) .No. 2 of 2015 (R)

AGAINST THE ORDER IN GOP 1531/2014 of FAMILY COURT,THRISSUR

PETITIONER/RESPONDENT/PETITIONER:

SHAIJU E.B, AGED 34 YEARS,
S/O.BAHULEYAN, EDATHIPARAMBIL HOUSE,
NEDUPUZHA DESOM
THRISSUR TALUK, THRISSUR DISTRICT.

BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA
SRI.K.D.SREEVISAKH

RESPONDENT/PETITIONER/RESPONDENT:

JYOTHY K.J, AGED 27 YEARS,
D/O.JAYANANDAN, KALATHIL HOUSE,
PARAYAKAD, NORTH PARAVUR P.O.,
PARAVUR TALUK - 683 513.

BY ADV. SMT.RENJU SEBASTIAN

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF PETITIOIN IN G.O.P NO.1531/2014 ON THE FILE OF FAMILY COURT, THRISSUR.

EXT.P2:TRUE COPY OF APPLICATION IN I.A 5072/2014 IN G.O.P NO.1531/2014.

EXT.P3: TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE PETITIONER IN I.A 5072/2014 IN G.O.P NO.1531/2014.

EXT.P4: TRUE COPY OF THE ORDER IN I.A 5072/2014 DATED 22/12/2014.

EXT.P5: TRUE COPY OF THE ORDER DATED 24/03/2014 IN CMP NO.763/14 IN M.C NO.24/2014 ON THE FILES OF COURT OF JUDICIAL 1ST CLASS MAGISTRATE-1, NORTH PARAVUR.

EXT.P6: TRUE COPY OF THE ORDER IN I.A 4558/14 IN G.O.P 1531/14 DATED 12/11/2014 ON THE FILE OF FAMILY COURT, THRISSUR.

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S TO JUDGE

C.K. ABDUL REHIM & K. RAMAKRISHNAN, JJ.

.....
O.P.(F.C)No.2 of 2015
.....

Dated this the 29th day of May, 2015.

JUDGMENT

Abdul Rehim, J:

The petitioner herein is the respondent in I.A.No.5072/2014 in GOP.No.1531/2014 on the files of the Family Court, Thrissur. He is the father of a minor child, namely Master. Bhagath Josh, aged 4 years. The respondent herein is the mother of the child. The petitioner herein filed GOP No.1531/14 before the Family Court seeking custody of the minor child, as well as seeking injunction to restrain the mother from forcefully taking custody of the child. Along with the original petition the petitioner herein had filed an interim injunction application as I.A.No.4558/2014, which was dismissed by the Family Court through Ext.P6 order, finding that prima facie the petitioner is not entitled to get an order of injunction. Thereafter the respondent herein filed I.A.No.5072/2014 seeking interim custody of the minor child. The interim application was considered by the Family Court and Ext.P4 order was issued allowing the petition and granting interim

custody of the minor child to the respondent herein, who is the mother. The petitioner herein was provided with visitation right on the child, on every Second Saturday at 10 a.m and 5 p.m. The petitioner herein is challenging Ext.P4 by invoking the supervisory jurisdiction vested on this Court under Article 227 of the Constitution of India.

2. Heard counsel appearing on both sides.

3. We do not find any material irregularity, illegality or impropriety with respect to exercise of jurisdiction by the Family Court in passing Ext.P4 order. The Family Court was justified in allowing interim custody to the mother, mainly because an application seeking interim injunction restraining the mother from taking custody of the child was already dismissed. However, we are of the considered opinion that the petitioner herein being the father of the minor child should be provided with adequate rights to have visit and interaction with the child. We are also of the considered opinion that the child is of very tender age and it will be conducive to have the child in the custody of the mother, considering welfare of

the child. Therefore we express the view that a modification with respect to the terms of the visitorial rights provided to the father would serve the purpose

4. Taking note of observations made by this Court as above, the parties have now agreed upon a settlement to provide custody of the child with the respondent - mother, till the disposal of GOP.No.1531/2014, subject to visitorial rights provided to the petitioner herein. Therefore as agreed upon between the parties, the writ petition is disposed of by modifying Ext.P4 order on the following terms;

(i). Custody of the minor child, Master Bhagath Josh will be retained by the respondent herein till final disposal of GOP.No.1531/2014 by the Family Court, Thrissur.

(ii). During the said period the petitioner herein, the father of the child, is permitted to have interim custody of the child on all Saturdays and Sundays. For the said purpose the respondent will hand over the child to the petitioner at 10 a.m on every Saturday from her residence. The petitioner will return back the child on every Sunday before 5 p.m at the

residence of the respondent. Both the parties shall not create any inconvenience or trouble in executing the above arrangement.

Sd/-
C.K. ABDUL REHIM, JUDGE.

Sd/-
K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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