

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

**OP (FC) .No. 3 of 2015 (R)**

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(AGAINST THE ORDERS IN OP(GW) 1133/2014 of FAMILY COURT,  
ATTINGAL DATED 17.11.2014 & 05.01.2015)

PETITIONER(S) :

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ASWATHY SUSEENDRAN, AGED 29 YEARS  
D/O.S.SUSEENDRAN, S S LAND, VILABHAGOM  
NEDUNGANDA P.O., VARKALA  
THIRUVANANTHAPURAM - 695 307.

BY ADVS.SRI.K.B.PRADEEP  
SRI.ASHOK SURESH

RESPONDENT(S) :

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SEMEEN N.RAJ,  
S/O.NATARAJAN, AYANIVILA VEEDU, AYIROOR  
VARKALA  
THIRUVANANTHAPURAM - 695 310.  
MINOR : NARAYANAN S  
AGED 2 YEARS.

BY ADV. SRI.SHAMMI VIJAYAN  
BY ADV. SMT.K.P.SANTHI

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON  
18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC).No. 3 of 2015 (R)

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**APPENDIX**

PETITIONER(S) ' EXHIBITS

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EXHIBIT P1. TRUE COPY OF THE PETITION IN O.P(GW)1133/2014.  
EXHIBIT P2. TRUE COPY OF THE APPLICATION I.A.NO.1737/2014.  
EXHIBIT P3. TRUE COPY OF THE COUNTER AFFIDAVIT AGAINST EXT.P2.  
EXHIBIT P4. TRUE COPY OF THE NOTICE RECEIVED BY THE PETITIONER FROM THE  
FAMILY COURT, ATTINGAL.  
EXHIBIT P5. TRUE COPY OF THE ORDER DATED 17.11.2014.  
EXHIBIT P6. TRUE COPY OF THE APPLICATION I.A.1886/2014.  
EXHIBIT P7. TRUE COPY OF THE ORDER ALLOWING EXT.P6 DATED 05.01.2015.

RESPONDENT(S) ' EXHIBITS

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/true copy/

P.S. To Judge.

**P.R. RAMACHANDRA MENON  
&  
K. HARILAL, JJ.**

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**O.P.(FC) No. 3 OF 2015**  
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**Dated this the 18<sup>th</sup> September, 2015**

**J U D G M E N T**

**P.R. Ramachandra Menon, J:**

Challenge is against Exts.P5 and P7 orders passed by the Family Court, Attingal in the concerned I.As preferred by the respondent in O.P.(GW)No.1133 of 2014 . The dispute is mainly with regard to the interim custody of a minor child aged about three years as on date.

2. Heard the learned Counsel for the petitioner as well as the learned Counsel appearing for the respondent at length. It is stated that the marital bond between the petitioner and the respondent got ruptured and they are now residing separately. Both the petitioner and respondent are lawyers and they could not arrive at settlement of the dispute so far.

3. The respondent herein filed I.A.No.1737 of 2014 for granting interim custody of the child vide Ext.P2, wherein Ext.P5 order was passed directing the petitioner to produce the child on

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24.11.2014. On that day, there was no sitting and the case was adjourned to 05.12.2014 and then to 09.02.2015. This made the respondent to file another I.A. as Ext.P6 (I.A.No.1886 of 2014) before the Family Court to advance the posting of the case and for production of the child immediately, which was allowed as per Ext.P7 order. It is seen that no date of posting is given in Ext.P7 and by virtue of allowing the I.A., the net result is that the petitioner is to comply with the order already passed on 24.11.2014 in I.A.No.1737 of 2014. The course and proceedings are sought to be challenged raising many a ground.

4. The respondent has filed a counter affidavit dated 15.01.2015.

5. During the course of hearing, the learned Counsel for the petitioner submits that the petitioner is ready to grant interim custody of the child for a day producing the child on every last Saturday at 11.00 a.m. and that the custody might be given back by the end of the working hours of the Court, till the proceedings are finalised by the Family Court in the pending matter.

6. The learned Counsel for the respondent submits that

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interim custody may be given for two days and that the matter could be finalised accordingly.

7. In response to the said submission, the learned Counsel for the petitioner points out that the child is suffering from serious deformity to the legs and can stand only with physical help being on 'mermaid splint'. Much care and caution is needed for the day to day activities and also for moving from one place to another, which necessitates constant vigil and attention of the mother. It is added that, it is only to solve the dispute with regard to interim custody, that the petitioner is expressing readiness to hand over the child as aforesaid.

8. After hearing both the sides, and also considering the fact that the issue has to be dealt with giving paramount importance to the well-being of the child, we find that the interim custody can be given to the respondent for a day, as agreed by the petitioner till O.P.(GW) No.1133 of 2014 is finalised by the Family Court, Attingal. In the above circumstance, the petitioner is directed to produce the child at 11.00 a.m. of the last Saturday of every month, before the Chief

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Minsiterial Officer of the Family Court, Attingal [or on the next working day at the same time, if the said Saturday becomes a holiday or if there is no sitting for the Court, for some or other reasons]. The child shall be returned to the petitioner on the same day by 4.30 p.m. This arrangement will continue till O.P. (GW)No.1133 of 2014 is finalised. No further orders are necessary to be passed by the Family Court in Ext. P2 regarding interim custody. The Original Petition (Family Court) stands disposed of.

**P.R. RAMACHANDRA MENON,  
JUDGE**

**K. HARILAL,  
JUDGE**

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