

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. 161 of 2015 (R)

AGAINST THE ORDER IN OPGW 470/2012 of FAMILY COURT,
TRIVANDRUM, DATED 08.04.2015

PETITIONER(S)/PETITIONER:

BABY KIRAN, AGED 37 YEARS,
D/O.N. NIRMALA, R/A.PRANAY HOUSE,
NEAR PRIYANKA EYE HOSPITAL, VAVVAKKAVU P. O.,
KOLLAM DIST, PIN-690 628,
NOW R/A. FLAT NO 2H,
TOWER NO 1, D.D.PLATINUM PLANET, THAMMANAM,
PULLEPPADY ROAD, ERNAKULAM, KOCHI - 682 032.

BY ADVS.SRI.P.SANKARANKUTTY NAIR
SRI.K.SANDESH RAJA
SRI.VENU MENON

RESPONDENT(S)/RESPONDENT:

GIRI JAYACHANDRAN G.,
S/O.JAYACHANDRAN, GEETHA GARDENS, T .C. 12/1219.,
SRA 43,
LAW COLLEGE ROAD, VIKAS BHAVAN P. O.,
THIRUVANANTHAPURAM-695 033.

BY ADVS. SRI.J.R.PREM NAVAZ
SRI. P.T.SHEEJISH

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON 29-05-2015,
ALONG WITH OPFC. 167/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

:2:

OP (FC).No. 161 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE OP(G&W)NO 470/2012 FILED BY THE PETITIONER**
- P2:- TRUE COPY OF THE INTERIM ORDER DTD 16/4/2013 IN OP.FC NO 1451/2013**
- P3:- TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT DTD 16/5/2014 IN OPFC NO 208/2014**
- P4:- TRUE COPY OF THE IA NO 196/2015 IN OP(G&W)NO 470/2012 FILED BY THE PETITIONER**
- P5:- TRUE COPY OF THE ORDER DTD 8/4/2015 IN IA NO 196/2015 IN OP NO 470/2012**

RESPONDENT(S)' EXHIBITS

:

- EXT.R1(a) COPY OF THE ACHIEVEMENT RECORD OF THE MINOR CHILD FROM THE SCHOOL FOR THE ACADEMIC YEAR 2014-15.**

// True Copy//

P.A. to Judge

SS

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

O.P.(F.C.) No.161 of 2015

Dated this the 29th day of May, 2015

JUDGMENT

C.K. Abdul Rehim, J

The petitioner herein is the petitioner before the Family Court, Thiruvananthapuram, in I.A.No.196/2015 in O.P.No.(G&W) 470/2012. The said interim application was filed before the Family Court seeking interim custody of the minor child namely, Jaichand Giri, now aged 10 years. O.P.No.(G&W)470/2012 was filed by the petitioner seeking permanent custody of the minor child, since marriage between the parties stood dissolved as per decree in O.P.No.1937/2010 of the Family Court, Ernakulam, dated 25.01.2011. The interim application in question was filed seeking to grant custody of the child during vacation commencing from 1st April 2015 to 30th May 2015.

2. The application was objected by the respondent herein before the Family Court, alleging that

the petitioner is keeping illicit relationship with one Sri.Rajan Paul and granting interim custody of the child may not be conducive for the welfare of the child. It was also alleged that the child was threatened by the petitioner and the person named Rajan Paul is an addict to liquor and used to consume alcohol even from the house. The court below noticed that, interim custody of the child was already given to the petitioner during the vacation time in the year 2013 and in the year 2014, by virtue of different orders passed by the said court, which were modified by the High Court. Following such arrangements made during the previous years, the Family Court felt that it is only just and proper to grant interim custody of the minor child to the petitioner. Therefore it was ordered that, interim custody of the minor child should be handed over to the petitioner from 13th April 2015 to 27th April 2015 and thereafter from 7th May 2015 to 21st May 2015, subject to certain conditions imposed with respect to restrictions in having custody of

the child to others etc.

3. This writ petition is filed challenging the said order, mainly contending that by virtue of Ext.P3 judgment arrangement was made during the year 2014 extending custody of the child to the petitioner during the full period of the vacation. The petitioner pointed out that in Ext.P3 this court has observed that on interaction with the child, the child expressed desire to continue with the mother, who is the petitioner herein.

4. When the matter came up for consideration before this court on 21.05.2015, the petitioner expressed willingness to hand over the child to the respondent, based on a request made to the effect that the child has to attend an interview at Aarya Central School, Thiruvananthapuram. Accordingly this court directed to hand over custody of the minor child to the respondent on that day, with specific direction to produce the child before this court on 25.05.2015. Thereafter, by virtue of a further order passed

on 25.05.2015, custody of the child was handed over to the petitioner, till 29.05.2015. Today both the parties along with child are present before this court. Custody of the child is handed over back to the respondent.

5. Learned counsel for the petitioner submitted that, the respondent had obtained custody of the child on 21.05.2015, only based on a false allegation made before this court that the child has to attend an interview. But it came to the knowledge of the petitioner that the child was never taken to attend any such an interview, as alleged. Learned counsel appearing for the respondent submitted that the interview proposed was not conducted only because of inconvenience of the school authorities. However, we are not proposing to have any adjudication with respect to those disputes. Now the child is handed over to the respondent. Evidently the summer vacation in the school is going to end on day after tomorrow. Therefore we are of the considered opinion that the interim

arrangement ordered under Ext.P5 which stood modified through different interim orders issued by this court, had served the purpose. No further consideration of the matter is required at present. The parties will be at liberty to approach the Family Court on future occasions seeking appropriate reliefs with respect to interim custody of the minor child.

6. Hence this original petition is hereby closed, subject to the above observations. The Family Court, Thiruvananthapuram will take earnest efforts to have an early disposal of O.P.(G&W) No.470/2012.

Sd/-
C.K. Abdul Rehim, Judge

Sd/-
K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge