

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 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

OP (FC).No. 373 of 2015 (R)

AGAINST THE ORDER IN IA NO.955/2015 IN OP 551/2015 of FAMILY
COURT,TRIVANDRUM DATED
PETITIONER(S):

REGHU M, AGED 39 YEARS,
s/O. MADHAVAN NAIR, VALLABHAM,
T.C.8/857, THIRUMALA OI, THIRUVANANTHAPURAM,
NOW RESIDING AT FLAT NO.64, J.M.GARDENS,
PALLIKKAVU TEMPLE ROAD, VADUTHALA, ERNAKULAM DIST.

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENT(S):

NANDHINI.C, AGED 35 YEARS,
D/O. CHANDRAMATHI, RESIDING AT SOUPARNIKA,
T.C. NO.48/ 36(7),
ARA 50 AMBALATHARA, THIRUVANANTHAPURAM.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
07-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC).No. 373 of 2015 (R)

APPENDIX

EXT. P1. COPY OF THE ORIGINAL PETITION OP.NO.551 OF 2015 ON THE FILE OF THE FAMILY COURT, THIRUVANANTHAPURAM.

EXT. P2. COPY OF THE ORDER OF THE FAMILY COURT, TVM IN IA. NO.954/2015 IN OP(G&W) NO.551 OF 2015 DT. 7.5.2015.

EXT. P3 COPY OF THE INTERLOCUTORY APPLICATION IA. NO.955/2015 IN OP.(G&W) NO.551 OF 2015 ON THE FILE OF THE FAMILY COURT, THIRUVANANTHAPURAM.

EXT. P4 COPY OF THE COUNTER IN IA. NO.955/2015 IN OP.(G&W) NO.551 OF 2015 ON THE FILE OF THE FAMILY COURT, THIRUVANANTHAPURAM.

EXT. p5 COPY OF THE ORDER IN IA. NO.955/2015 IN OP.(G&W) NO.551 OF 2015 ON THE FILE OF THE FAMILY COURT, THIRUVANANTHAPURAM DT. 4.7.2015.

/TRUE COPY/

PS TO JUDGE

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

OP(FC).No. 373 of 2015

Dated this the 7th day of August, 2015

JUDGMENT

K.Ramakrishnan,J.

This OP(FC) is filed by the petitioner challenging Ext.P5 order passed by the Family Court in IA.No.955/2015 in OP(G & W) No.551/2015 of the Family Court, Thiruvananthapuram under Article 227 of the constitution of India.

2. It is alleged in the petition that the petitioner is the petitioner in OP.(G & W).No.551/2015 on the file of the Family Court, Thiruvananthapuram for declaring him as the guardian and appointing the petitioner as guardian of the minor children Bharath and Karthik. The respondent herein is the mother of the children. The petitioner filed IA.No.9555/2015 for interim custody of the minor children. The elder child was studying in 4th standard and the younger child was studying in play school. The respondent filed objection and the court below without application of mind ordered only visitation right to the petitioner

for 3 hours on every sunday between 2 p.m. and 5 p.m. on the assumption that it was agreed between the parties. In fact there was no such agreement and the petitioner is aggrieved by that order. He has no other remedy than to approach this court to set aside the order.

3. Heard counsel for the petitioner. Since it is mentioned in the order that it was based on consent that such an interim arrangement has been made, during the pendency of the petition the remedy of the petitioner is to file review of that order before that court. Counsel for the petitioner also submitted that onam vacation is coming and in view of the fact that this order will continue until further orders he has a right to file application during onam vacation is affected. But we feel that that apprehension is not genuine. If the petitioner wants any modification, he is at liberty to file application before the Family Court for that purpose stating the reason for such modification and if such an application is filed the Family Court is bound to pass appropriate orders in the application after hearing both sides. We feel that this is not a fit case to interfere with the order passed by the court below in Ext.P5 invoking the

supervisory jurisdiction under Article 227 of the Constitution of India.

4. With the above liberty the OP(FC) is dismissed. If such an application is filed the court below is directed to consider and pass appropriate orders on such application after giving opportunity of hearing to both parties. Communicate the order to the court below at the earliest.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

