

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MRS. JUSTICE MARY JOSEPH

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

OP (FC).No. 494 of 2015 (R)

AGAINST THE ORDER IN IA.NO.1701/2015 IN OP.NO.127/2015 OF THE FAMILY
COURT, TIRUR.

PETITIONER(S):PETITIONER

NAVEEN CHAND AGED 32 YEARS
S/O.RAMACHANDRAN NAIR, KARTHIKAKAKKAT HOSUE
THENHIPPALAM POST, 673 636
WORKING AS OPERATION MANAGER
SONY AUTHORISED SERVICE CENTRE, KOZHIKODE.

BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.T.K.SANDEEP
SRI.ARJUN SREEDHAR
SRI.ARUN KRISHNA DHAN
SRI.JOSEPH GEORGE(MULLAKKARIYIL)

RESPONDENT(S):RESPONDENT

MANJU N.NAIR
D/O.P.V.NARAYANAN NAIR, AUDIOLOGIST
R/AT MANJULA HOUSE, OLAKARA AMSOM, DESOM AND POST
676 306.

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 26-
10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (FC).No. 494 of 2015 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE ORDER OF THE HONOURABLE HIGH COURT DATED
25.5.15 IN WPCR 180/2015.

EXHIBIT P2. COPY OF THE ORDER OF THE FAMILY COURT, TIRUR DT.
14.10.2015 IN IA.NO.1701/2015 IN OP.NO.127/2015

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

PS TO JUDGE.

C.K.ABDUL REHIM & MARY JOSEPH, JJ.

OP(FC) No. 494 of 2015

Dated this the 19th day of October, 2015

JUDGMENT

Abdul Rehim,J.

Challenge in this original petition filed under Article 227 of the Constitution of India is against Ext.P2 order passed by the Family Court, Tirur in IA.No.1701/2015 in OP.No.127/2015. The petitioner herein filed OP.127/2015 before the Family Court seeking permanent custody of the minor child born out of the wedlock between the parties herein. On an earlier occasion when the respondent had violated the interim order passed by the Family Court directing production of the child, the petitioner had approached this court seeking a writ of habeas corpus in WP(crl). 180/15. While disposing the said case, in Ext.P1 judgment this court observed that, the respondent had flagrantly violated the order passed by the Family Court granting interim custody of the child for few days to the petitioner. Hence this court ordered to grant custody of the minor child to the petitioner for 3 days from

25.5.2015 till 28.5.2015. The petitioner was directed to handover custody back to the respondent on 28.5.2015. It is made clear that the parties will be at liberty to approach the Family Court, Tirur seeking appropriate orders with respect to interim custody of the minor child on any subsequent occasion.

2. The present interlocutory application, IA.No.1701/15 was filed by the petitioner before the Family Court seeking temporary custody of the minor child on the date of his birth day on 23.10.2015 and also for getting custody of the child to sit her for 'Vidyarambam' at Mukambika Temple at Kollur. But the said application was resisted by the respondent contending that the child had already undergone the rituals at Mukambika Temple on 27.6.2015, and therefore there is no necessity for taking the child again to the said temple for the said purpose. The court below had dismissed the interim application observing that the petitioner was granted with custody of the minor child during the month of August and September and since the Mukambika Temple is situated outside the State of Kerala at a far away distance, it is not at all safer to allow custody of the child for a period of 5 days as required in the petition. It is aggrieved by

Ext.P2 order this original petition is filed.

3. We notice that the relief sought for in IA.No.1701/2015 is seeking interim custody of the child for the period from 21.10.15 to 26.10.15. Since the said period is over and the purpose for which the custody was sought for is not existing as of now, this court is of the opinion that the matter has become infructuous. Therefore we are not inclined to entertain this original petition filed in challenge of Ext.P2 order.

4. However, this court takes note that, this court had reserved liberty to the parties to approach the Family Court seeking interim custody of the child for specified reasons. We are of the opinion that it is better in the interest of justice for the Family Court to make a permanent arrangement with respect to handing over temporary custody of the minor child by the petitioner herein, till the disposal of the original petition pending before that court. On the other hand, as already observed in Ext.P1 judgment, he can be given liberty to approach the Family Court seeking interim custody on specified occasions. In any case it is for the Family Court to consider such request and to take appropriate decision with respect to granting temporary

custody of the minor child to the petitioner. Reserving liberty of the petitioner as mentioned above, the original petition is hereby disposed of. It is also made clear that if any such application is filed before the Family Court, the Family Court shall consider the same and shall take appropriate decision, without any delay.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH, JUDGE

Pmn/

