

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

&

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

RP.No. 209 of 2015 () IN Mat.Appeal.792/2012

AGAINST THE ORDER/JUDGMENT IN Mat.Appeal 792/2012 of HIGH COURT OF
KERALA DATED 03-02-2015

REVIEW PETITIONER/RESPONDENT:

SHAMEENA K.K. AGED 30 YEARS
D/O KANNOTH KUNHAMMED, KANNOTH HOUSE, PUTHUPPADY P.O.
EANGAPUZHA, KOZHIKODE-673586.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENT/APPELLANT:

FAISAL RAHIMAN, AGED 31 YEARS
S/O K.M.ABDUL RAHIMAN, KARIMALA KUZHIYIL HOUSE
ALANALLUR P.O., ALANALLUR AMSOM DESOM, MANNARKAD TALUK
PALAKKAD-678601.

R1 BY ADV. SRI.K.A.SALIL NARAYANAN

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
04-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.MOHANAN & P.D.RAJAN, JJ

.....
R.P. No. 209 of 2015
.....

Dated 4th March 2015

ORDER

V.K.MOHANAN, J

The respondent in Mat appeal.No.792 of 2012 preferred the above review petition seeking a review of the judgment dated 3.3.2015 in the above mat appeal.

2. Heard the review petitioner and the respondent.

3. On a perusal of the judgment sought to be reviewed, it can be seen that the contentions advanced by both the appellant and respondent are specifically stated in the judgment sought to be reviewed. In paragraph 4 of the above judgment, it is stated that " the court below considered the question as to whether it is proper to entrust the custody of minor child Aman Faisal to the appellant. After having considered the evidence and age of the child, who born on 31.3.2010, the learned Judge was of the opinion that, it will not be proper to separate the child from the mother and to give custody to the father/appellant herein. However, according to the learned Judge, it is only just and proper to direct the respondent to provide access of the child twice in a month to his father and to direct the appellant to award cost to comply

with the direction issued by the court below". In paragraph 6 of the above judgment, we have observed that "it is an admitted case that the appellant and the respondent are husband and wife and the child namely Aman Faisal was born to them on 31.3.2010. By 31.3.2015, the child will attain the age of 5 years. It is also admitted that the said child is now studying in LKG class in T.K.Trust Public School, Eangapuzha in Thamarassery in Kozhikode District. When the impugned order was passed, the child was aged only 2 years. The paternity of the child is not disputed and therefore we are of the view that, with slight modification with respect to the custody of the child, this appeal can be disposed of, and thereby the interest of both the father and mother of the child can be saved and consequently, the welfare of the child can be ensured, particularly when the child at this age need the attention, care and love of his father and mother".

4. It is on the basis of the above observation and finding, while disposing of the appeal, five conditions were incorporated and the last condition was to the effect that " if either of the parties want to vary the above directions or arrangements, under any change of circumstance, either of

them are free to approach the Family Court, Kozhikode and the said court is free to pass appropriate orders on merit”.

5. The learned counsel for the petitioner has no contention that the judgment in question is vitiated due to any error apparent on the face of the record. The review petitioner is free to approach the court below, if there is any change in the circumstance, by virtue of the 5th clause of the above judgment. Thus, we find no material or legal irregularities, warranting the review of the judgment as sought for.

In the result, there is no merit in this review petition and accordingly the same stands dismissed.

V.K.MOHANAN, JUDGE

P.D.RAJAN, JUDGE

lgk