

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

RP.No. 665 of 2015 (R) IN OP (FC).245/2015

AGAINST THE ORDER/JUDGMENT IN OP (FC) 245/2015 of
HIGH COURT OF KERALA DATED 07-07-2015

REVIEW PETITIONER/PETITIONER:

DR.VARUN S.NAIR (SIDHA),
AGED 37 YEARS, S/O SUKUMARAN NAIR,
VINDYA VIHAR, THACHOTTUKAVU
MALAYINKEEZHU, THIRUVANANTHAPURAM.

BY ADV. SRI.V.R.GOPU

RESPONDENT/RESPONDENT:

REMYA S.NAIR,
AGED 27 YEARS, D/O. ALLYKUMARI,
NOW RESIDING AT KUNNILVEEDU
THEKKUMKARA, NEDUMANGADU P.O.
THIRUVANANTHAPURAM-695541.

BY ADV. SRI.WILSON URMESE

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 04-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

AMG

APPENDIX

REVIEW PETITIONER'S EXHIBITS

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|--------------|---|
| ANNEXURE-A1- | TRUE PHOTOS (3 IN NUMBERS) WHICH SHOW THE HOUSE OF THE RESPONDENT. |
| ANNEXURE-A2- | TRUE PHOTOS (3 IN NUMBERS) WHICH SHOW THE HOUSE OF THE PETITIONER. |
| ANNEXURE-A3- | TRUE COPY OF THE STUDENT'S DATA IN THE NAME OF SIVA NANDA DATED 20-04-2015. |

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

R.P No. 665 OF 2015
IN
O.P (FC) No. 245 OF 2015

DATED THIS THE 4th DAY OF AUGUST, 2015

ORDER

C.K. Abdul Rehim, J:

This review petition is filed by the petitioner in the original petition, which was disposed of through judgment dated 07-07-2015. Challenge in the original petition was against Ext.P4 order passed by the Family Court, Thiruvananthapuram through which arrangements was made regarding interim custody of the minor child of the petitioner and the respondent, till the disposal of OP (G&W) 1834/2014 filed before that court, seeking permanent custody of the child. This court after elaborate consideration of the various issues involved and after hearing arguments on both sides found that, the interim arrangement made by the Family Court does not invite any interference, except slight modification with respect to the

visitation rights provided to the petitioner. The petitioner was permitted to have custody of the child on every weekend from 4 p.m. on Friday till 4 p.m. on Sunday. Further this court directed the family court to dispose of the original petition itself on an early basis.

2. This review petition is filed raising an allegation that the minor child is not ready to stay along with the respondent in her house. It is alleged that the order, if worked out, will cause misery, strain and depression on the child, who was brought up in a good and healthier atmosphere. It is also alleged that the respondent is not residing in a favourable living condition. It is mentioned that the child is now studying in a school near to the residence of the petitioner and the respondent has no income and she cannot afford to admit the child in a school of good standard. The shifting of the child to the house of the respondent will destroy her future and therefore the child has to be permitted to be in the custody of the petitioner, is the contention raised.

3. Per contra, learned counsel for the respondent submitted that she had secured admission for the child in 1st standard in Arsha International Model School, Nedumangad, which is a very reputed school and that she had made all arrangements to protect the child and to take care her future by providing good education and other facilities.

4. We are of the considered opinion that the family court had passed the impugned order after appreciating all relevant facts and circumstances and after having direct interactions with the parties. The family court is the best and competent court to take a decision with respect to interim custody of the child, pending disposal of the original petition. While disposing the matter in the OP(FC), this court categorically found that there is no error of jurisdiction committed by the Family Court in passing the impugned order. However while confirming the impugned order we have agreed to have a slight modification in favour of the petitioner with respect to the visitorial rights. The position being so we do not find any reason to review the

order. There is no error of jurisdiction or any error apparent on the face of record. The petitioner has no case that any factual aspects, which is relevant for deciding the issue, has been omitted notice of this court. Learned counsel for the petitioner contended that it is better for this court to have an interaction with the minor child, because according to him minor is not willing to go along with the respondent. We do not think such an issue need be considered in this review petition, since it will be left open to the Family Court to consider all such aspects while implementing the interim arrangements.

5. Since we do not find any legally valid ground existing to review the judgment in OP (FC) 245/2015, this review petition is hereby dismissed.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge