

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE M.S.K.JAISWAL**

C.M.A.No.618 of 2009

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JUDGMENT: (*Per. Hon'ble Sri Justice G.Chandraiah*)
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This Civil Miscellaneous Appeal is directed against the order dated 01.05.2009 passed in G.O.P.No.642 of 2005, whereunder the learned III-Additional District Judge, Kakinada, allowed the said petition filed by the 1st respondent/mother and directed the appellant/father and the 2nd respondent herein to handover the custody of the minor boy by name D.Chinnu to the 1st respondent herein, who is the mother of the minor boy. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been preferred by the appellant/father of the minor boy.

When the matter was taken up for hearing on 20.11.2014, this Court directed the parties to be present before this Court on 04.12.2014 along with the minor son. On 04.12.2014, the parties did not appear before this Court and hence the matter was directed to be listed on 26.12.2014 for appearance of the parties. On 26.12.2014 also the parties did not appear before this Court and consequently the matter has been posted today for appearance of the parties. Today, when the matter is taken up for hearing, the parties did not appear before this Court. When we asked the learned Counsel appearing on either side as to why the parties did not present before this Court, learned Counsel for the appellant submits that he has addressed a letter to the appellant informing the aforesaid order of this Court, however, the same has been returned unserved with an endorsement that “the addressee left without instructions” and that he has no instructions in the matter.

In a case of this nature, the paramount consideration of this Court is the welfare of the minor boy. A perusal of the impugned order would show that the trial Court elaborately dealt with all the aspects and rightly concluded that it is not safe for the minor boy to be in the custody of the appellant/father. The observations arrived at by the trial Court, which are clear and cogent, do not warrant any interference by this Court. Therefore, we do not find any illegality in the impugned order and as such, the appeal is liable to be dismissed.

The Civil Miscellaneous Appeal is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

G.CHANDRAIAH, J

M.S.K.JAISWAL, J

22.01.2015
Gsn