

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.2437 of 2013

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.11.03.2013 in I.A.No.437 of 2012 in O.P.No.1411 of 2010.

2. The petitioner herein has filed the said OP seeking custody and visitation rights of his children against respondent, who is his wife.

3. Initially, by order dt.20.01.2011 in I.A.No.1 of 201,1 an interim arrangement providing visitation rights to petitioner at Mecca Majid was granted by the said court. That order was subsequently modified on 06.06.2011 in I.A.No.372 of 2011 at the instance of respondent and the respondent was directed to produce the children at NTR Park. The petitioner was to meet the children on 27.05.2012 at the said park and the children were supposed to be produced by respondent at that place on that day.

4. According to petitioner, he went to the park at 01:50 p.m. and waited there till 04:15 p.m. but the respondent did not come to the park with children. Therefore, the petitioner filed I.A.No.437 of 2012 to punish respondent under the Contempt of Courts Act, 1971 for

violating the order dt.06.06.2011 in I.A.No.372 of 2011.

5. The respondent filed a counter alleging that it was the petitioner who was not present at the NTR Park on 27.05.2012 at 02:00 p.m. as per the orders of Court and that she was present.

6. By order dt.11.03.2013, the Court below dismissed the IA on the ground that petitioner did not produce any evidence to show that he went to the NTR Park at 01:50 p.m. and waited there till 04:15 p.m.

7. The petitioner contends that this observation of the Court below is not correct since petitioner had informed the Court that he was present, but the respondent was not present.

8. Whether the petitioner was present at NTR Park at the designated time or whether respondent was present at NTR Park at the designated time, is a question of fact, which is required to be proved by evidence. Therefore, the petitioner should have examined himself or any other witness in support of his plea that he was present at NTR Park at the designated time on 27.05.2012. In the absence of such evidence, the Court below would have difficulty in deciding the question of fact referred to above.

9. Therefore, I do not find any error in the order passed by the Court below dismissing the I.A.No.437 of

2012. In any event, the OP appears to have been decided in June, 2013 giving visitation rights to petitioner partly. The petitioner states that his two elder daughters have now become majors and that he is having temporary custody of his son.

10. Having regard to the above reasons and the subsequent events, I am not inclined to interfere with the order passed by the Court below. Therefore, the Revision fails and is accordingly dismissed. No order as to costs.

11. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-06-2015

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