

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No. 900 OF 2016

ORDER:

This civil revision petition under Article 227 of the Constitution of India by the petitioner is directed against the order, dated 29.10.2015, of the learned Judge, Additional Family Court, Hyderabad, passed in I.A.No.18 of 2015 in O.P.No.1780 of 2014 filed under Section 12 of Guardians and Wards Act, 1890, read with Section 151 of the Code of Civil Procedure, 1908, seeking interim custody of his two minor children, Master K. Bhavesh Singh and Master K. Soham Singh.

I have heard the submissions of Sri B. Saantosh Singh, learned counsel for the petitioner and perused the material record.

The relevant facts, as borne out by the record and as narrated by the learned counsel at the hearing, in brief, are as follows:

The petitioner's marriage was performed with his wife Pooja Bai. Under lawful wedlock, she gave birth to two children Master K. Bhavesh Singh and Master K. Soham Singh and later passed away on 11.04.2014. And, on that day itself, the respondents, who are the maternal grand parents of the two boys, took them to their custody and since then they are living with them at Machlipura, Mangalhat, Hyderabad. The boys are said to be now aged about 3 years 9 months and 2 years 4 months. While so, the petitioner filed the aforementioned original petition for custody of his children. The subject interlocutory application is filed for interim custody *inter alia* contending that the respondents are not allowing him to see the children and that being their natural father, he is entitled to continue to have a bond with his children and that the children cannot be deprived of the love and affection of the father. The respondents who are resisting the said original

petition also resisted the subject application filed for interim custody of the children.

It is an admitted fact that after the death of Pooja Bai, the mother of the two boys, the petitioner remarried and he is now blessed with a son, who is said to be aged one year. The trial Court, having considered the pleadings of both sides and the submissions made before it and also the fact that the welfare of the children is paramount disallowed the request of the petitioner and dismissed the interlocutory application filed for interim custody of the sons. While passing the said orders, the trial Court has also taken into consideration the fact that the two boys, Master K. Bhavesh Singh and Master Soham Singh, are living with the respondents, who are their maternal grand parents, since April, 2014 and the further fact that the petitioner has already remarried and is blessed with a boy through his second wife. Aggrieved thereby, the petitioner is before this Court.

Learned counsel for the petitioner reiterated the case of the petitioner and stated that if not interim custody, visitation rights may be given to the petitioner, who is the natural father.

I have bestowed my attention to the facts and the submissions of the learned counsel. Having regard to the facts, events narrated and the reasons assigned by the trial Court in its order, this Court is of the considered view that the trial Court is justified in not granting the request of the petitioner for interim custody, more particularly for the reason that by now the two boys have just begun to take roots at the place of their maternal grand parents and are getting acclimatized to a certain life style at their place having been living with them since more than two and half years. Since the boys are below four years of age, it is not in their interests to now consider the request of the petitioner for interim custody and upset the life style to which they are perhaps slowly adjusting. Any

frequent change of place of stay and environment of the boys at their tender ages may unsettle or unnerve them; further, such a course may not be conducive to the welfare of the minors, which is the paramount consideration. Therefore, this Court finds that this revision is devoid of merit and is liable to be dismissed.

Accordingly, the revision petition is dismissed confirming the orders impugned, however, reserving liberty to the petitioner to seek appropriate legal remedies for visitation rights either by filing an interlocutory application or by making an alternative request to the trial Court at the time of final adjudication of the O.P., if wishes so to do. Since the O.P., is of the year 2014, the trial Court shall dispose of the same as expeditiously as possible and preferably within three months from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, shall also stand dismissed.

Date: 15.11.2016
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M. SEETHARAMA MURTI, J

