

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P. No.3758 OF 2016

ORDER:

The revision is directed against endorsement dated 28.04.2016. The endorsement reads as follows:

“Heard the petition. Directed to produce the children by 09.05.2016.”

The respondent filed memo on 28.04.2016 praying for a direction to the revision petitioner herein to produce the children before the Court in the interest of justice. The memo, it appears, is ordered and the children were directed to be produced by 09.05.2016. On 09.05.2016, the petitioner did not produce the children and the Family Court has dismissed the O.P. for default.

After perusing the material placed on record, prima facie, this Court is of the view that the Family Court did not follow fair procedure while ordering production of children on 09.05.2016. Assuming that the order dated 28.04.2016 is not complied with, it is incomprehensible that the O.P. could be dismissed for default. The Family Court is dealing with a lis for appointment of guardian ought to have exercised its discretion and power to prevent prejudice to both the parties and steps are taken which further the interest of children. The order dated 28.04.2016 is set aside. The Memo is restored to file and the Family Court is directed to consider and dispose of the same within four weeks from the date of receipt of a copy of this order. The revision petitioner, if so advised, is given

liberty to file counter, if any, within two weeks from today. The
C.R.P. is allowed. No order as to costs.

Miscellaneous petitions pending if any shall stand closed.

S.V.BHATT, J

Date:30.08.2016
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