

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

And

HON'BLE SRI JUSTICE N. BALAYOGI

FAMILY COURT APPEAL No.221 of 2015

JUDGMENT : (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal, the appellant has assailed the order and decree, dated 14.03.2015, passed by the Family Court at L.B. Nagar, Ranga Reddy District, in O.P.No.978 of 2014.

2. Pursuant to order dated 1st August 2017, the respondents are present with minor children.

3. The appellant herein has filed the above O.P. before the trial Court under Sections 7, 10 and 25 of Guardian and Wards Act r/w. Section 7 of Family Courts Act, claiming for custody of his children, namely, A.Harsha Vardhana and A.Arjun Kumar, who are in the custody of respondents i.e. parents-in-law of the appellant.

4. The aforesaid O.P. was dismissed by the trial Court, by recording that a case in Crime No.156 of 2013 was registered against the appellant for the offences punishable under Sections 306 and 498-A of IPC due to the suicide committed by the wife of the appellant.

5. It is not in dispute that when the impugned order was passed, the said case was pending for trial. Thereafter, the appellant and his

mother have already been acquitted in Sessions Case No.231 of 2014, vide judgment dated 30.12.2014.

6. Since birth, the children remained with the respondents. The appellant, being father of the children, is natural guardian, thus, neither his vested right to see the children nor to take their custody, can be curtailed. Except the case mentioned above, there are no other allegations against the appellant.

7. We interacted with the children and asked whether they could recognise the appellant. The children have well recognized the appellant as their father and the mother of the appellant as their paternal grand mother. No doubt, the children have also recognized the respondents.

8. In view of above, we hereby direct that the respondents shall hand over the children to the appellant at 5 p.m. on 11.08.2017. For the said purpose, the appellant shall go to the residence of respondents. Since the appellant is staying 10 kilometres away from the residence of respondents and the children are admitted in the school at the place of respondents, the appellant shall make arrangement to get the children admitted in a school at his place. Till then, the children shall remain with the appellant from 5 p.m. of every Saturday till 5 p.m. of Sunday.

9. Rights are granted to the respondents to visit the children as and when they want, without disturbing the school of the children.

10. We hereby make it clear that the respondents have right to visit the children during festivals and during vacations of the school. The appellant shall allow the children to spend at least half of the vacation with the respondents, if they come forward for the said purpose.

11. Respondents are at liberty to approach this Court for further arrangements, if they feel that the appellant is not taking care of children properly.

12. In view of above, the appeal is disposed of, setting aside the impugned order and decree, dated 14.03.2015, in O.P.No.978 of 2014.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

N. BALAYOGI, J

9th August 2017

ajr