

HON'BLE SRI JUSTICE SANJAY KUMAR

AND

HON'BLE SMT JUSTICE ANIS

WRIT PETITION No.21317 of 2016

ORDER: (*per Hon'ble Sri Justice Sanjay Kumar*)

The petitioner was the wife of the first respondent. The first respondent filed F.C.O.P.No.259 of 2010 before the Family Court, Secunderabad, seeking dissolution of his marriage with the petitioner by grant of a decree of divorce. He also filed F.C.O.P.No.10 of 2011 before the same Court seeking custody of the minor children of the parties, V.Manoj Kumar and V.Manasa. Both the O.Ps. were referred to the Lok Adalat convened by the Mandal Legal Services Committee, City Civil Court, Secunderabad. By separate Awards dated 21.4.2012 and 05.05.2012 both the F.C.O.Ps. were settled in terms of the compromise arrived at by and between the parties.

In so far as F.C.O.P.No.10 of 2011 is concerned, the parties filed a Joint Memo to the effect that the petitioner herein would retain the custody of the children and that she alone would be responsible for their maintenance. She specifically undertook that she would not claim any amounts towards maintenance or otherwise. The Award dated 21.04.2012 passed by the Lok Adalat recorded this compromise. However, the petitioner now

filed this writ petition seeking modification of the Award dated 21.04.2012 passed in relation to F.C.O.P.No.10 of 2011 on the file of the Family Court, Secunderabad. The petitioner states that due to financial and health constraints, she is unable to look after the minor children, V.Manoj Kumar and V.Manasa, and she is willing to handover the custody of the children to their father, the first respondent herein.

Sri A.D.Vara Prasad, learned counsel, entered appearance for the first respondent-husband and Sri D.Seshasayana Reddy, learned counsel representing him, stated that the first respondent has no objection to taking the children and looking after them. However, as the interest of the children is paramount and one of them, V.Manasa, is still a minor, this Court directed that the children be produced at 2 pm on 14.02.2017 in Chambers. They were accordingly produced. Having interacted with the children, this Court finds that they are both willing to stay with the father. The parents also appeared in Chambers. The petitioner stated that out of the sum of Rs.2 lakhs paid by the first respondent towards permanent alimony for the children and herself, a sum of Rs.1,50,000/- was invested in a Fixed Deposit in the name of the daughter, V.Manasa. The petitioner stated that she would hand over the documents relating to this Fixed Deposit to the first respondent. The

petitioner further stated that the immovable property gifted under a registered document stands in the name of the children and herself and that she has no intention to sell the same.

Given the peculiar facts of the present case, we are of the opinion that the award dated 21.4.2012 passed by the Lok Adalat in F.C.O.P.No.10 of 2011 warrants modification to the effect that the custody of the children-V.Manoj Kumar and V.Manasa shall hereafter be with the first respondent, who shall take care of their interests to the best of his ability. To this extent, the award, recording the joint memo filed by the parties, shall stand modified.

The Writ Petition is allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE ANIS

14th February, 2017

GJ/DR