

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.754 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the unsuccessful petitioner is directed against the order, dated 06.01.2017, of the learned XIV Additional District Judge-cum-Additional Judge, Family Court, Vijayawada, passed in I.A.No.479 of 2016 in GWOP No.578 of 2016.

2. I have heard the submissions of Sri C.Raghu, learned counsel appearing for the petitioner, and of Sri M.Rama Rao, learned counsel appearing for the respondents. I have perused the material record.

3. The facts, which are necessary to be stated as a prelude to this order, in brief, are as follows:

The petitioner herein filed the above-stated O.P., for custody of his son viz., Dhanush, who is stated to be aged 1½ years as on today. In the said O.P., the petitioner filed the afore-stated interlocutory application for interim custody of the boy. The respondents, who are the maternal grand parents of the boy, are resisting the O.P. They also resisted the interlocutory application filed by the petitioner by filing a counter. On merits and by the order impugned in this revision, the trial Court dismissed the petition of the petitioner seeking interim custody of the boy.

4. The learned counsel for the petitioner would submit as follows:

“The learned Judge of the Family Court failed to appreciate the facts correctly and the legal position in proper perspective and erroneously dismissed the interlocutory application without considering even the alternative request for visitation rights. The learned Judge,

Family Court, was in error in observing that when the minor boy has been under the care and custody of one Chandrakala and her husband Venkata Ramana, who are not even the parties to the petition, the question of considering the request for interim custody of the boy does not arise for consideration and that the petition is defective in substance and is liable to be dismissed in *limine*. Steps have already been taken to implead the said Chandrakala and her husband as party respondents to the OP pending before the Family Court in view of the observations in the impugned order. In the facts and circumstances, the petition may be disposed of granting appropriate and necessary orders to the petitioner.”

5. The learned counsel for the respondents would submit that the respondents in their counter categorically pleaded that mother of the minor boy was murdered by the petitioner and his parents and that, therefore, it is not safe to grant the custody of the minor boy to the petitioner. He would also submit that the minor boy is under the care and custody of the eldest daughter of the respondent viz., Chandrakala and her husband, Venkata Ramana, who are having no male issues and that they are now looking after the welfare of the minor boy.

6. I have given earnest and thoughtful consideration to the facts and submissions.

7. Having regard to the facts and the submissions and as the petitioner has already taken appropriate steps by filing necessary applications in the proceedings before the Family Court for impleadment of said Chandrakala and Venkata Ramana, who are presently having the custody of the minor boy, this Court is of the considered view that this petition can be disposed of with appropriate directions.

8. In the result, the Civil Revision Petition is disposed of directing the Court below to dispose of the application/s for impleadment filed by the petitioner, if pending as on today, and give an opportunity to the parties concerned to file their counters, if any, in the guardian O.P. and dispose of the Guardian O.P., on merits, and in strict accordance with the procedure established by law as expeditiously as possible and preferably within two months from the date of disposal of the petition/s filed for impleadment of third parties. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

August 17, 2017
Lmv

JUSTICE M.SEETHARAMA MURTI

