

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WP NO. 17850 OF 2017

Date of Order: 6.6.2017

Between:

Syed Rounaq Ali Khan

...Petitioner

And

The State of Telangana and others

...Respondents

DATE OF JUDGMENT PRONOUNCED: 06-06-2017

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE Ms. JUSTICE J. UMA DEVI

1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? Yes/No
2. Whether the copies of judgment may be
marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to
see the fair copy of the Judgment? Yes/No

C.V. NAGARJUNA REDDY, J

J. UMA DEVI, J

• HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

AND

HON'BLE MS. JUSTICE J. UMA DEVI

+ W.P.No. 17850 OF 2017

% Dated 6.6.2017

Syed Rounaq Ali Khan

....Petitioner

Vs.

\$ The State of Telangana and others

....Respondents

! Counsel for petitioner: Mr. Ashok Kumar Agarwal

^Counsel for Respondents: Mr. Asst. Govt. Pleader for Home (TS)

<GIST:



> HEAD NOTE:

? Cases referred

1) AIR 2014 SUPREME COURT 918

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WP NO. 17850 OF 2017

ORDER: (Per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ petition is filed for issuance of habeas corpus to direct respondent No.3 to produce the minor boy by name Rasheed Syed Ali Khan from her custody in terms of the order of the 18th Judicial Circuit Court, Country of Dupage, Illinois, United States of America.

We have heard Mr. Ashok Kumar Agarwal, learned counsel for the petitioner and the learned Assistant Government for Home (TS) appearing for respondents 1 and 2.

While the petitioner has sought the aforesaid relief in this writ petition based on the United States of America's Court order, on the petitioner's own averments, the said order was stayed by the Additional Family Court, Hyderabad in OP No. 438 of 2017 filed by respondent No.3 and that the said OP stands posted to 14.6.2017. In our opinion, since the very order of the American Court, which is solely based for filing this writ petition, is under stay by the Additional Family Court, Hyderabad, the petitioner is not entitled to claim the relief in this writ petition.

The learned counsel for the petitioner has placed reliance on the judgment of the Apex Court reported in *Arathi Bandi Vs. Bandi Jagadrakshaka Rao and others* ¹ in support of his plea of maintainability of the present writ petition. On a careful reading of the

¹ AIR 2014 SUPREME COURT 918

facts of the said case, we are of the opinion that the said judgment does not come to the aid of the petitioner for the simple reason that it was a case where the wife has defied the American Court's restraint order and came down to India with her child and remained in India for two years without seeking any legal remedy against order of American Court. On these facts, the Supreme Court held that the Courts in India shall not come to the aid of a person who has brazenly defied the order of competent foreign Court which has attained finality. The learned counsel for the petitioner has fairly conceded that while respondent No.3 is barred from initiating the legal proceedings in India as per order dated 12.9.2011 of American Court, the Additional Family Court, Hyderabad, which entertained the OP of respondent No.3 and granted interim stay, does not suffer from inherent lack of jurisdiction. Therefore, it cannot be said that the order of the Additional Family Court staying the American Court order is a nullity and that this Court can entertain the writ petition ignoring such order. The petitioner is, however, entitled to take the aid of the judgment in *Arathi Bandi Vs. Bandi Jagadrakshaka Rao* (supra) before the Family Court and seek vacation of the order passed by it. Before approaching this Court by way of a writ petition of this nature, the petitioner must first approach the Additional Family Court, Hyderabad and seek vacation of the interim order or avail an appropriate legal remedy before the competent court/forum to set at naught the said order.

For the aforesaid reasons, this writ petition is dismissed subject to the observations made hereinabove.

JUSTICE C.V. NAGARJUNA REDDY

Dt. 6.6.2017

JUSTICE J. UMA DEVI

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