

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 3204 of 2018

ORDER:

Heard.

2. Assailing the order dated 20.02.2018, passed in I.A.No.416 of 2017 in FCOP No.154 of 2014, by the IX Additional District and Sessions Court, East Godavari, Rajamahendravaram, wherein the application filed under Section 26 of Hindu Marriage Act, was allowed, the present revision came to be filed under Article 227 of the Constitution of India.

3. The facts disclose that the petitioner in the I.A. is the second petitioner in HMOP No.154 of 2014 filed by the petitioners seeking divorce by mutual consent, under Section 13 B of Hindu Marriage Act (for short, 'the Act'). It is stated that the second respondent in I.A. was married to the petitioner on 21.11.2001 at Hotel Meghalaya, Visakhapatnam, as per Hindu rituals. Out of wedlock, they were blessed with a female child by name Satya Sai Cheritha, on 27.12.2003, who was studying sixth class as on the date of filing of the petition. Later, differences arose between them due to which himself and the respondent entered into an agreement on 07.10.2014. Pursuant to the said agreement, an application under Section 13 B of the Act, came to be filed, seeking dissolution of the marriage, which was allowed on 15.11.2014. Thereafter, the present application came to be filed by the husband seeking a direction to the respondent for sending his only daughter, who is with the respondent, to his house at Visakhapatnam during Pongal, Dussarah and summer holidays or in alternative, direct the respondent to produce the child before the Family Court at Visakhapatnam, on such dates fixed by the Court. A counter

came to be filed denying the averments made in the petition. It is stated that since the petitioner husband never cared for the welfare of the child and as he has not even shown any interest in the education of the child and other aspects and that there is a threat to the life of the child, if she is sent to Visakhapatnam, it is not possible to send the child. In the counter, the respondent-wife categorically stated that she is a doctor working in a Government hospital and even if the petitioner visits her house, the atmosphere will get spoiled, which would affect the personal life and create psychological disturbance to the minor child. Hence, pleads that request of the petitioner cannot be considered. After considering the rival submissions, the trial Court passed the following order:

“In the result, the petition is allowed, the respondent is directed to cooperate the petitioner in sending her daughter/ minor-ward along with her father/ the petitioner herein, in summer vacation for 7 days, Dussarah and Pongal for atleast 2 days and other important occasions, if any, as stated by the respondent, in the presence of both counsels, the petitioner can taken his daughter from the grandmother’s house of the respondent at Visakhapatnam, and the petitioner shall issue 15 days prior notice to the respondent, with regard to his wish of taking his daughter.”

4. Challenging the same, the present appeal came to be filed.
5. Though various grounds are raised, both the counsel, after consulting their clients, sought modification of the order by directing the petitioner herein (wife) to send the daughter of the petitioner/ respondent by name Satya Sai Cheritha to the house of her grand parents at Visakhapatnam, from where the respondent-husband will take his daughter between

09.30 a.m., and 10.00 a.m., in the morning and drop her back in the house of grand parents before 06.00 p.m.

6. Having regard to the submissions made by both the counsel, without going into merits of the case, the present Civil Revision Petition is disposed of modifying the order to the extent that the respondent-husband can have the custody of her minor daughter by name Satya Sai Cheritha, for a period of seven days during summer vacation and for a period of two days during Dussarah and Pongal festivals and on other important occasion, if any by giving 15 days prior notice, expressing his intention to take the child during the period as agreed by both the counsel. On receiving the intimation, the petitioner-wife shall send the child to the house of her parents at Vishakapatnam, from where the respondent-husband can take her in the morning between 09.30 a.m. and 11.00 a.m. and drop her back on the same day before 06.00 p.m., for the period specified above. It is needless to mention that if anything happens to the minor child, during the said period, the respondent (husband) herein will be held responsible in all aspects. It is also to be noted that the word “on other important occasions” as stated in the order should be of such a nature, to which the minor child is willing to join her father on those days. No costs.

7. As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

27.07.2018
vnb

C. PRAVEEN KUMAR, J