

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

AND

THE HON'BLE SRI JUSTICE P.KESHAVA RAO

CIVIL MISCELLANEOUS APPEAL Nos.1122 of 2009 and 464 of 2010

02.11.2018

Between:

Kotta Veerabrahmam

..Appellant

and

Kunisetty Venkata Narasimha Rao

..Respondent

Counsel for the appellant: Mr.K.Sarvabhouna Rao

Counsel for the respondent: Mr.T.Balaswami

The Court made the following:



COMMON JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

These two civil miscellaneous appeals arise out of common order, dated 22.10.2009, in G.W.O.P.Nos.149 and 249 of 2008. The appellant is the maternal grandfather and the respondent is the father of the minor boy. The appellant filed G.W.O.P.No.149 of 2008 under Sections 7 and 10 of the Guardians and Wards Act, 1890 (for short 'the Act') for declaring him as the guardian to the person and properties of the minor boy – Kunisetty Venkata Siva Nagamani Sai Dutta Veera Koteswara Santhosh @ Santhosh and appointing him as the custodian of the said properties. The respondent filed G.W.O.P.No.249 of 2008 under Sections 8 and 10 of the Hindu Minority and Guardianship Act, 1956 and Sections 8, 10 and 25 of the Act, for similar relief. On appreciation of the oral and documentary evidence adduced by both the parties, the Court below has dismissed G.W.O.P.No.149 of 2008 and allowed G.W.O.P.No.249 of 2008. More than nine years had elapsed since the disposal of the said G.W.O.Ps.

2. Today, at the hearing, the learned counsel for both the parties have informed the Court that the minor boy has completed seventeen years of age and that within one year, he

will be attaining the majority. It is not in dispute that the minor boy has been in the custody of the appellant - grandfather all through till the date on the strength of the interim order granted in the appeals. The appellant and the minor boy are personally present in the Court. The minor boy has grown up and appears to be mature not only physically but also mentally. We have ascertained his views. He has expressed his strong disinclination to go to the respondent - father and stay with him. It is an admitted fact that the respondent was convicted for assaulting the minor boy and sentenced to imprisonment for one month and that the appeal filed by him was also dismissed, whereby his conviction was confirmed. Mr.T.Balaswami, learned counsel for the respondent, submitted that the criminal revision case filed by his client is pending before this Court.

3. We have to keep in mind the fact that within one year the minor boy will attain the majority and as he appears to be happy and comfortable under the custody of the appellant – grandfather, we do not intend to disturb the existing arrangement till the minor boy attains the majority.

4. It the above facts and circumstances of case, we are of the opinion that if the common order of the Court below is allowed to stand that would be detrimental to the interests of the minor boy.

5. Hence, the common order under these appeals is set aside. G.W.O.P.No.149 of 2008 is allowed and G.W.O.P. No.249 of 2008 is dismissed. These Civil Miscellaneous Appeals are, accordingly, allowed. It is, however, made clear that the observations made with respect to the conviction of the respondent in this judgment shall not affect the pending criminal revision case filed by him.

6. As a sequel to allowing of these appeals, I.A.No.1 of 2018 in C.M.A.No.1122 of 2009 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

P.KESHAHA RAO, J

02nd November, 2018

GHN