

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 5854 of 2018

ORDER:

1) Pursuant to the adjournment of I.A.No.1270 of 2018 in G.W.O.P.No.859 of 2018, the present C.R.P., came to be filed under Article 227 of the Constitution of India, on an apprehension that the respondent is likely to take away his minor daughter from the jurisdiction of the Court of Principal District Court, Guntur. By an order dated 05.10.2018, this Court while issuing notice before admission, directed the respondent herein not to take away the minor child "Hamsini" from India.

2) A perusal of the contents of the affidavit filed in support of the I.A., shows that the marriage between the petitioner and the respondent was solemnized on 02.08.2012 as per the Hindu rites and customs. Out of wedlock, they were blessed with one female child by name Samineni Hamsini on 12.03.2014, who is now aged about 4 years. Due to disputes, an application for divorce by mutual consent came to be filed before the Family Court and accordingly the marriage was dissolved on 01.03.2017. It is said that one of the conditions of the compromise was that minor child shall be in the custody of the wife, and the husband i.e., petitioner herein is entitled to visit his minor daughter whenever he wants. It was further stated that the

petitioner is entitled for the custody of the minor child if the respondent remarries or goes abroad. On coming to know that the respondent is trying to obtain passport for the minor child and that there is every likelihood of respondent leaving the country with the child, the present I.A., came to be filed to restrain the respondent from taking the child-Hamsini from the jurisdiction of the Court. Adjournment of the I.A., without passing any order, lead to filing of the C.R.P., wherein this Court on 05.10.2018 directed the respondent not to take the child outside the jurisdiction of the concerned court.

3) A counter came to be filed before this Court opposing the same. The averments made in the affidavit filed in support of the counter would show that she denied all the material allegations made against her except those that are specifically admitted by her. It is stated that the petitioner married her by misrepresenting about his salary, job and financial conditions. Though an application came to be filed seeking permission to take the child to Canada, the petitioner herein is refusing to sign the said application. It is stated that unless the father of the child signs the application, there will not be any clearance from the Canadian Embassy to take the child with her. It is further stated in paragraph 6 that the respondent has no plan to go abroad and that the decision was taken only for the future of the child. It is further stated that the petitioner, who is working in

Delhi never took care of the child even during the subsistence of the matrimonial life and that he used to visit Hyderabad once in a month to spend time with his family. Having regard to the circumstances, it is stated that the allegations made in the petition are all false.

4) But one thing that is to be noted is that the application filed by the petitioner restraining the respondent from taking the child to Canada is pending before the trial court. It may not be proper for this Court to decide the issue here. Since the said I.A. is still pending consideration before the trial court, it would be just and proper to direct the trial court to deal with the same in accordance with law.

5) Accordingly, the C.R.P. is disposed of directing the trial court to dispose of the I.A.1270 of 2018 in G.W.O.P.No.859 of 2018 on the file of the Principal District Judge, Guntur, as early as possible preferably within a period of three months from the date of receipt of the copy of this order. It is always open for both the parties to approach the trial court for any interim order pending disposal of the I.A. Having regard to the fact that an interim order came to be passed by this Court on 05.10.2018 the said order shall remain in force for a period of three weeks from today, so as to enable the parties to obtain interim orders, if any, pending I.A.No.1270 of 2018.

6) There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:06.12.2018

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