

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.18 of 2019

ORDER:

This Revision is filed assailing the order dt.16.04.2018 in I.A.No.410 of 2018 in O.P.No.375 of 2017 of the Judge, Additional Family Court, Hyderabad.

2. Petitioner herein is the respondent in O.P.No.375 of 2017 filed by the respondent herein under Section 12 of The Guardians and Wards Act, 1890 praying the Court to grant visitation rights on every Saturday of the week and to grant interim custody during school vacations of their minor daughter, Mahrukh Tanveer, pending disposal of the O.P.

3. Pending the said O.P., the respondent had filed I.A.No.410 of 2018 seeking visitation rights/interim custody pending disposal of the main O.P.

4. Though the marriage between the petitioner and the respondent is not disputed and so also the fact that the child is born to them on 12.09.2006, the respondent's contention was that petitioner forcibly took away her minor child from her custody in December, 2011 on the pretext of showing the child to her grandmother. It is also the case of the respondent that the petitioner has no education or source of income.

5. Petitioner however contended that the respondent is addicted to vices and she had voluntarily left the house and

executed Memorandum of Agreement after receiving Rs.5,00,000/- giving up the custody of minor daughter. It was also stated that the minor child was not willing to go to the respondent.

6. By order dt.16.04.2018, the Court below granted interim custody of the minor child on every Sunday of the week from 8.00 a.m., to 6.00 p.m., pending disposal of the main O.P.

7. In its order, the Court below observed that the resistance of the minor child to go with the respondent was probably because of either tutoring or threats made by the petitioner and such possibility cannot be excluded. However, it held that since the child was aged 12 years, though interim custody by giving overnight stay cannot be granted to the respondent, it is just and necessary to see that some relationship and love & affection developed between the respondent and her minor daughter.

8. Assailing the same, this Revision is filed.

9. Though counsel for petitioner sought to contend that the child is refusing to go with the respondent since there is no love and affection between them for all this period, I am of the opinion that the order passed by the Court below being discretionary and within the jurisdiction of the Court below does not warrant any interference. Also since it gives an opportunity to the respondent and the child to develop affection for each other, I do not find any error of jurisdiction in the order of the Court below warranting

interference of this Court in exercise of jurisdiction under Article 227 of the Constitution of India.

10. Therefore, this Civil Revision Petition is dismissed at admission stage. No order as to costs.

11. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

23rd January, 2019.

gra