

**HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD**

F.C.A.No.70 of 2018

JUDGMENT: (Per Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellant is aggrieved by the order dated 22.11.2017 passed by the Family Court-cum-VI Additional District Judge, Khammam, in G.W.O.P.No.897 of 2015, whereby the learned Family Court has partly allowed the application filed by the respondent - husband, seeking permanent custody of the two minor children, and has directed the appellant - wife to handover the custody of the two minor children to the respondent - husband only during vacations and holidays falling every year.

2. The brief facts of the case are that the marriage of the appellant and respondent took place on 28.02.2008 at Rupla Thanda, Kamepally Mandal, Khammam District. During their wedlock, they were blessed with two sons, namely Ashmith and Rishit, presently aged 11 and 9 years. However, during their wedlock, disputes arose between the parties; they separated their ways. Subsequently, the respondent - husband filed an application under Sections 7 and 8 of Guardian and Wards Act (for short "the A ct") for appointing him as natural guardian of the minor sons, and to direct the appellant - wife to handover the custody of the two minor sons to him. However, by the order dated 22.11.2017, the learned Family Court has partly allowed the said application as mentioned herein above.

3. The learned Counsel for the appellant - wife, Mr.Nageswara Rao Repakula, submits that admittedly the respondent - husband was working as Executive Engineer in Singareni Collieries Company Limited at Kothagudem District. Therefore, he is required to attend the office even during vacation period of his two minor sons. Moreover, since he is living alone, there is no one to look after the interest and welfare of the children. Thirdly, even when the custody of the minor children was handed over to the respondent - husband, they had fallen ill. Therefore, the learned Counsel pleads that the impugned order should be modified by this Court, and the visitation rights should be given to the respondent - husband only for a limited period rather than during entire vacations and holidays falling every year.

4. On the other hand, learned Counsel for the respondent - husband has pleaded that no evidence has been submitted by the appellant - wife to show that the minor children had, indeed, fell ill while they were in the custody of their father. Therefore, the impugned order should not be disturbed by this Court.

5. Heard the learned Counsel for the parties and perused the impugned order.

6. Needless to say, the father has as much right to have the company of his children as the mother. After all the child needs to have the company of both the parents.

7. In the present case, although, the respondent - father had sought permanent custody of the minor children, but realizing the

fact that the respondent - father is living alone, the learned Family Court granted a limited interim custody of the minor children to the respondent - father. The appellant has not placed any evidence to establish her plea that while the minor children were in the custody of their father, they had fallen ill. Merely because, the respondent happens to stay alone would not preclude him from having interim custody of the minor children. Further, the respondent would be in a position to make arrangements for the welfare of the minor children while he is discharging his duties in the office. There is no allegation that when the custody of the minor children was handed over to the respondent, the children were abandoned by the respondent - father. Therefore, the contentions raised by the learned Counsel for the appellant are clearly unacceptable.

For the reasons stated above, this Court does not find any merit in the present appeal.

Accordingly, the Family Court Appeal is dismissed.

Miscellaneous petitions pending, if any, shall also stand dismissed. No order as to costs.

RAGHVENDRA SINGH CHAUHAN, J

T.AMARNATH GOUD, J