

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.332 of 2020

- Smt. Swarupa W/o. K. Kiran Kumar, Aged About 27 Years R/o. Flat No. 406, Block A-3, Dolphin Heights, Near Singapur City, Vijaynagaram, Tehsil And District Vijaynagaram (Andhra Pradesh) At Present R/o. House No. 571/10, Vijay Nagar, Police Station Mohan Nagar, District Durg Chhattisgarh

---- Petitioners

Versus

- K. Kiran Kumar S/o. K. Dharma Rao, Aged About 35 Years R/o. House No. 571/10, Vijay Nagar, Police Station Mohan Nagar, District Durg Chhattisgarh. At Present R/o. Street No. 5/6, Pragati Nagar, Bhilai, District Durg Chhattisgarh. Office Address Senior Accountant, I F C O Shankar Nagar, Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner : Mr. Manoj Paranjpe, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

18-05-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 24.02.2020 passed by the learned Family Court, Durg, C.G.
2. The respondent had filed an application under Section 25 of Guardian and Wards Act. Notice was issued to the petitioner/respondent on the main application vide order dated 20.02.2020.
3. Learned counsel for petitioner has submitted that the respondent had filed an application under Section 25 of Guardian and Wards Act. Notice was issued to the petitioner/respondent on the main application vide order dated 20.02.2020. Till then, there was no application filed for

interim custody of the child, the case was fixed for 29.02.2020. However, on an interim date, an application was filed on 24.02.2020, before the date fixed for the respondent appearance praying for interim custody of the child, which has been decided finally without notice and without hearing the petitioner and it was allowed granting the interim custody of the child to the respondent.

4. It is further submitted that the whole proceeding taken up by the Family Court is against the principles of law and natural justice, therefore, it needs to be interfered with.
5. Considered on the submissions and also perused the order impugned, it is apparent that the notice was not served to the petitioner on the main petition within the time stipulated and that too the application for interim custody of child has been hastily decided by the learned Family Court without notice to the opposite party and the reasons are totally unexplained as to what was the reason for such haste in deciding that application. Therefore, impugned order passed is against the principles of law and natural justice. This needs to be interfered, therefore, without notice to the opposite party, the impugned order is set aside and the matter is remanded back to the Family Court with a direction to decide the application filed by the respondent afresh, after giving the proper opportunity to the petitioner/respondent for hearing.
6. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge