

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2949 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/husband, challenging the order, dated 21.08.2019, passed in I.A.No.498 of 2019 in O.P.No.722 of 2016, by the Additional Family Court, Hyderabad, whereby, the subject interlocutory application filed by the petitioner/husband seeking custody of his minor son by name Dhruva from 10:00 AM on Saturday to 06:00 PM on Sunday of every weekend, was dismissed.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the petitioner/husband would contend that the order under challenge is erroneous. The Court below ought to have granted visitation rights to the petitioner/husband, who is the father of the minor child. Though there was an order, dated 20.10.2018, passed in I.A.No.972 of 2018 in the subject O.P. by the Court below to produce the minor child on every first and third Saturday of the month from 10:00 PM to 02:00 PM at the office of the Secretary, District Legal Services Authority, City Civil Court, Hyderabad, the respondent/wife had deliberately flouted the said order by not attending before the District Legal Services Authority, City Civil Court, Hyderabad, along with her son. The Court below ignored the fact of non-compliance of the orders passed by the Court

below by the respondent/wife time and again and the methods used by her to deny the visitation rights of the petitioner/husband. A father cannot be denied his right to visit his son and ultimately prayed to set aside the order under challenge and allow the subject I.A.No.498 of 2019 as prayed for.

4. On the other hand, the learned counsel for the respondent/husband supported the impugned order and contended that the Court below rightly dismissed the subject interlocutory application. There is nothing to take a different view. There is no legal infirmity in the order under challenge and ultimately prayed to sustain the order under challenge and dismiss the Civil Revision Petition.

5. In view of the above submissions of both the learned counsel, the point that arises for determination in this revision is as follows:

“Whether the order, dated 21.08.2019, passed in I.A.No.498 of 2019 in O.P.No.722 of 2016, by the Additional Family Court, Hyderabad, is liable to be set aside?”

6. As seen from the material placed on record, the Court below, while dealing with the subject interlocutory application, observed that the petitioner/husband has already filed I.A.No.666 of 2016 in O.P.No.1288 of 2016 for the custody of his son by name Dhruva and the said petition was dismissed by order, dated 08.09.2017, refusing to grant interim custody of his son, but however, visitation rights were granted to the

petitioner/husband. The petitioner/husband had not preferred any revision challenging the said order and as such, the said order attained finality. Thereafter, the petitioner/husband filed a petition in I.A.No.972 of 2018 in the subject O.P.No.722 of 2016 seeking modification of the timing of visiting hours granted in I.A.No.666 of 2016 in O.P.No.1288 of 2016 and accordingly, the Court below has modified the order with the consent of both the parties. Now again the petitioner/husband cannot file the subject interlocutory application seeking custody of the minor son without mentioning the orders passed in I.A.No.666 of 2016. The Court below further held that the only grievance of the petitioner/husband is that much time was not granted to him to visit his son and the respondent/wife is not bringing the child to see his father as per the directions of the Court below and that when the petitioner/husband himself has asked for modification of the order passed in I.A.No.666 of 2016, again he cannot claim that much time was not given to him to see his son and that if at all the respondent/wife has not brought the son during the visitation hours, nothing prevented the petitioner/husband to follow the due process of law by bringing the same to the notice of the Court below. This Court is in agreement with the findings recorded by the Court below in the order under challenge.

7. It is apt to state that the supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution of India is limited to see that a Court or Tribunal subordinate to it functions "*within the bounds of their authority*" and to ensure

that law is followed by such Court or Tribunal by exercising jurisdiction vested in them and not declining to exercise the jurisdiction which is vested in them. Apart from the above, High Court can interfere in exercise of its power of superintendence, when there has been a patent perversity in the orders of the Courts or Tribunal subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted. In the instant case, neither there is patent perversity in the order under challenge nor the Court below travelled beyond its jurisdiction in passing the impugned order. There is no legal infirmity in the order under challenge. There is nothing to take a different view. The contentions raised by the petitioner/husband in this Civil Revision Petition do not merit consideration. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

20th February, 2020
Bvv

Dr. SHAMEEM AKTHER, J