

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

FAMILY COURT APPEAL No.14 OF 2014

JUDGMENT: (Per Hon'ble Dr.SA,J)

This Family Court Appeal, under Section 19(1) of the Family Courts Act, is filed by the appellant/respondent/husband, aggrieved by the order and decree dated 04.12.2013 passed in O.P.No.851 of 2011 by the learned Judge, Additional Family Court, at Hyderabad, only to the extent of grant of custody of the minor child-Amar to the respondent/wife.

2. The appellant and the respondent and the minor child by name Amar are present before this Court today.

3. Heard the learned counsel for the appellant, the learned counsel for the respondent and perused the record.

4. The respondent/petitioner/wife filed the subject O.P.No.851 of 2011 before the Court below under Section 13(ia) of Hindu Marriage Act, seeking to dissolve the marriage performed between her and the appellant by way of decree of divorce and also to grant custody of Minor Child Master Amar. The Court below *vide* impugned order and decree dated 04.12.2013 passed in O.P.No.851 of 2011 allowed the subject O.P and dissolved the

marriage performed between the respondent/wife and the appellant/husband on 08.03.2006 at Arya Samaj, Hyderabad, by way of decree of divorce and directed the appellant to handover the child to the respondent within two months from the date of the impugned order. In case the appellant fails to handover the child, the respondent was granted liberty to approach the Court for custody of the child. Further, after handing over of the child, the appellant was permitted to see the child in the School during lunch hours on every first Monday and third Monday of a month at the School, where the child was studying and also permitted the appellant to offer some gifts to the child. Aggrieved by the grant of custody of the minor child-Amar to the respondent, the appellant preferred this appeal.

5. As seen from the material placed on record, the Court below while advertent to the contentions raised by both sides with regard to grant of custody of the minor child-Amar, considered the oral and documentary evidence on record and passed the impugned order and decree dated 04.12.2013 granting custody of the minor child-Amar to the respondent (mother). The Court below took the welfare of the child as paramount consideration, while granting custody of the minor child to the respondent (mother). The minor child has developed lot of affection and bonding with his mother

(respondent). Under these circumstances, there is no illegality or infirmity in the impugned order and decree dated 04.12.2013 passed by the Court below in granting custody of the minor child-Amar to the respondent.

6. At this stage, it is submitted by both sides that for all-round growth and development of the minor child, he shall also have the company of the father (appellant). The Court below granted visitation rights to the appellant i.e, permitting him to see his minor son-Amar in the School during lunch hours on every first Monday and third Monday of a month at the School, where the minor child was studying. Now the minor child is aged about 15 years. He needs to spend some more time with his father (appellant) for his all-round growth and development and also to develop a bonding with his father (appellant). The mother (respondent) conceded for the same.

7. Under these circumstances, the impugned order and decree dated 04.12.2013 passed in O.P.No.851 of 2011 by the learned Judge, Additional Family Court, at Hyderabad, is modified only to the extent of grant of visitation rights to the appellant (father) and ordered as follows:

- i) The appellant (father) is permitted to meet his minor son-Amar on all Sundays between 10:00 AM and 4:00 PM and during the Festivals between 10:00 AM and 2:00 PM.
- ii) The respondent (mother) informed this Court that on Sundays, she will drop the minor child-Amar at appellant's residence at 10:00 AM and pick up him at 4:00 PM on the same day. During Festivals, she will drop the minor child-Amar at appellant's residence at 10:00 AM and pick up him at 2:00 PM on the same day. The appellant (father) agreed for the aforesaid arrangement.
- iii) It has been conceded by both parties that during Vacation Holidays, if the minor child-Amar wants to stay with the appellant (father) for one or two days or for a week, it is open to him to stay with the appellant (father). The respondent (mother) shall not have any objection for such stay.

8. Accordingly, this appeal is disposed of granting visitation rights to the appellant (father), as indicated above.

Miscellaneous petitions, pending if any, in this appeal, shall stand closed. No order as to costs.

Dr. SHAMEEM AKTHER, J

NAGESH BHEEMAPAKA, J

Date: 31.10.2022
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