

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

CIVIL REVISION PETITION NO: 1622 OF 2021

Petition under Article 227 of the Constitution of India against the order dated 29/09/2021 in I.A.No.145 of 2021 in G.W.O.P. No.43 of 2020 on the file of the Court of the XVI Additional District and Sessions Judge, Malkajgiri, Ranga Reddy District.

Between:

Juvvadi Vamshi Krishna, S/o J. Rajeshwar Rao, Aged 38 years, Occ: Software Engineer, R/o. H. No. 5-21/63, First Floor, Bhupathi Rao Nagar, Old Alwal, Secunderabad.

...APPELLANT/PETITIONER

AND

1. Peechara Venkateshwar Rao, S/o Late P. Srinivas Rao, R/o. Flat No.201, Raos Nest Apartment, Road No. 1, Mangpuram Colony, Hyderabad - 500010.
2. Peechara Sridhar Rao, S/o Late P. Srinivas Rao, R/o Flat No. 201, Raos Nest Apartment, Road No. 1, Mangpuram Colony, Hyderabad – 500010

...RESPONDENTS/RESPONDENTS

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim custody of the minor daughter Juvvadi Medini to the Petitioner in connection with the order dated- 29/09/2021 passed in I.A. No. 145 of 2021 in GWOP. No. 43 of 2020, passed by the XVI Additional District and Sessions Judge Court at Malkajgiri Ranga Reddy District, pending disposal of the O.P.

Counsel for the Sole Appellant: SRI D. MADHAVA RAO

Counsel for the Respondents: SRI T. L. NAYAN KUMAR

The Court made the following: ORDER

THE HONOURABLE SMT. JUSTICE M.G. PRIYADARSINI

CIVIL REVISION PETITION No. 1622 of 2021

ORDER:

This Civil Revision Petition is filed by the petitioner in G.W.O.P. No. 43 of 2020 assailing the orders of the learned XVI Additional District and Sessions Judge, Ranga Reddy District at Malkajgiri, dated 29.09.2021. By the impugned orders, the petition filed by the revision petitioner in I.A. No. 145 of 2021 under Section 12 of the Guardians & Wards Act to grant interim custody of his minor daughter, JM, in his favour was dismissed.

2. The facts of the case are that, the revision petitioner filed GWOP No. 43 of 2020 seeking physical custody of his minor daughter, JM, aged about 3 years, a UK Citizen, from the custody of respondent Nos. 1 and 2, who are maternal uncles of the minor child. The revision petitioner married Srilatha on 13.02.2011, that during their wedlock, they were blessed with a baby girl at London on 12.11.2017. On 13.05.2018, the petitioner, along with family, came to India and dropped his wife, along with daughter, at the house of his father-in-law and returned to UK in June, 2018. Unfortunately, his wife, Srilatha, died under suspicious circumstances on 06.05.2019 at her father's home. After the death of Srilatha, the minor daughter

remained in the custody of the respondents, who are her maternal uncles. Alleging that the respondents are not allowing him to look after his daughter, that he is in a position to look after all her needs and for all round growth and development of the minor child, he filed the GWOP seeking her custody. Pending the GWOP, he filed the impugned application seeking interim custody of the minor child. Contesting the I.A., the respondents filed their counter contending that their wives are well educated and are taking care of the minor child in the best possible way; that the petitioner had mortgaged the property in the UK and Hyderabad; and under the guise of this petition, he is trying to extract money from them. By filing certain documents, marked as Exs.R.2 to R.4, they have contended that the petitioner had agreed not to claim the custody of the minor child. Having considered the respective pleadings of the parties and on evaluation of the documents marked as Exs.P.1 to P.12 and R.1 to R.4, the Court below dismissed the petition on the ground that pending adjudication of the issue in GWOP for determining the rights of the parties to have the custody of the minor child, the relief sought for in the I.A. cannot be granted at this stage. However, the Court below granted visitation rights permitting the petitioner to visit the minor child on every

Sunday between 9:00 a.m. to 5:00 p.m. at the house of the respondents, pending disposal of the main GWOP.

3. Admittedly, the issue that is to be determined before the Court below in GWOP is handing over of physical custody of the minor child in favour of the petitioner from the respondents. It is no-doubt true that in the absence of mother, biological father is the natural guardian of the minor child. It is also settled law that dealing with the cases of custody of minor child, the paramount consideration for the Courts is the welfare and well-being of the child. In the present case, it is not in dispute that immediately after the death of wife of the petitioner, his daughter, who was then aged six months, has been living with the respondents from 2019. Such being the case and as determination of rights of the parties to have the custody of the minor child will be only after full-fledged trial, the Court below has rightly dismissed the claim of the petitioner in the I.A. while granting him visitation rights to visit his minor daughter on every Sunday between 9:00 a.m. to 5:00 p.m. at the house of the respondents pending disposal of the main GWOP. No infirmity or illegality is discernable with the impugned order passed by the Court below warranting interference of this Court

in exercise of jurisdiction under Article 227 of the Constitution of India.

4. The Civil Revision Petition lacks merit and the same is accordingly dismissed. However, considering the nature of the dispute involved in the GWOP, the Court below is directed to dispose of the GWOP as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order, if not already disposed of. There shall be no order as to costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

SD/-A.V.S.PRASAD
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XVI Additional District and Sessions Judge, Malkajgiri, Malkajgiri District.
2. One CC to Sri D. Madhava Rao, Advocate [OPUC]
3. One CC to Sri T. L. Nayan Kumar, Advocate [OPUC]
4. Two CD Copies

RM/plp

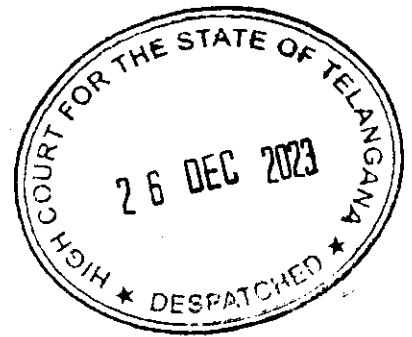
HW

HIGH COURT

DATED:12/10/2023

ORDER

CRP.No.1622 of 2021



DISMISSED

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21/12/23
HJH