



O.S.A. No.230 of 2

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

O.S.A.No.230 of 2020
and
C.M.P.No.11600 of 2020

R. Lakshmi Narasimhan

.. Appellant

vs.

1. T.P.Vasanth

2. Mrs. Sumeeta

.. Respondents

Memorandum of Grounds of Original Side Appeal under Order XXXVI, Rule 1 of the Original Side Rules read with Rule 15 of the Letters Patent, against the Judgment and Decree passed in OP No.797 of 2017 dated 26.05.2020 on the file of this Court, granting joint custody of the Minor Child to the respondents herein and also Monopoly right to the mother/2nd respondent alone to give consent and instructions to the statutory authorities have to be set aside in view of the adoption being not valid.

For Appellant :: Mr.M.Arunachalam

For Respondents :: Mr.G.Surya Narayanan



J U D G M E N T

(Judgment of the Court was made by S.S.SUNDAR,J.)

WEB COPY This appeal is against the Judgment and Decree passed in OP No.797 of 2017 dated 26.05.2020.

2. The order of the learned Single Judge holding that the Biological mother/ ex-wife of the appellant i.e., the 2nd respondent shall be entitled to joint custody of the minor child Saatvika along with the step-father/ 1st respondent subject to the condition that the respondents shall not be divorced or separated, is under challenge.

3. After hearing the parties at length, this Court is of the view that from the settlement agreed between the appellant and the 2nd respondent for divorce before the impugned order and the subsequent events alleged by the learned counsel appearing for the appellant, the only genuine grievance of the appellant appears to be that while passing the impugned order the learned Single Judge has held that the 2nd respondent is entitled to joint custody of the minor child Saatvika along with the 1st respondent, who is only the step-father of the minor.



4. It is admitted that the minor is the only daughter of the appellant and the 2nd respondent. Before the Family Court the appellant and the 2nd respondent reached an agreement dated 27.11.2012 and as per the agreement the permanent custody of the minor daughter was to remain with the 2nd respondent / wife who was held to be the permanent guardian of the minor daughter Saatvika. From the order impugned, this Court finds that no right was given to the 1st respondent, however, the relief of adoption was refused only to protect the interest of the minor so that the minor will not lose her right as a daughter of her natural father.

5. In view of the above, this Court is of the view that the direction that the 2nd respondent is entitled to joint custody of the minor along with the step-father of the child/ 1st respondent is unwarranted, as the appellant has only agreed that the custody might be with the mother and not with any one else.

6. It is in the said circumstance, the order impugned in this appeal is modified, accordingly, paragraph No.30 clause (i) will read as follows:-



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“(i) *The biological mother viz., the 2nd respondent in the OP shall be entitled to the custody of the minor child Saatvika.*”

7. Accordingly, this Original Side Appeal is disposed of with the above modification. The other portion of the order will be intact. No costs. Consequently, the connected miscellaneous petition is closed.

(S.S.S.R., J.) (A.D.M.C., J.)
21.10.2024

dsa

Index : Yes/No

Neutral Citation : Yes/No



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