



O.S.A No. 95 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM

THE HON'BLE MR. JUSTICE S.S. SUNDAR

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

O.S.A. No. 95 of 2024

&

C.M.P. No. 11443 of 2024

1. Mr. Kumar
 2. Mrs. Bhuvaneshwari
- ..Appellants

Vs.

1. Mrs. Sadhasivam
 2. Mrs. Radha
 3. Mrs. Rani
- ..Respondents

Prayer: Original Side Appeal under Order XXXVI Rule 1 O.S. Rules
and under clause 15 of Letters Patent as against the order dated 22.04.2024
passed in O.A. No. 1922 of 2024 in O.P. No. 716 of 2023.

For Appellants :: Mr.N. Nagu Sah



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For Respondents :: Ms.M.B. Dominique for R1 & 2

J U D G M E N T

*(Delivered by **S.S. SUNDAR,J.**)*

This Original Side Appeal is directed against the order dated 22.04.2024 passed by the learned Single Judge in O.A. No. 1922 of 2024 in O.P. No. 716 of 2023.

2. Respondents 1 and 2 herein are the natural parents of minor Roshini, who is alleged to have been given in adoption to the appellants herein. However, adoption is disputed by natural parents. The first appellant and the first respondent are brothers. The application in O.A. No.1922 of 2024 had been filed by respondents 1 and 2 herein seeking interim custody of the minor child Roshini during the summer vacation from 01.05.2024 to 31.05.2024.

3. This Court, after hearing the parties and considering the facts and circumstances of the case, opined that the minor child should know about her blood brother and blood sister and she cannot be denied the



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companionship of her own mother and father. It was also brought to the notice of the learned Single Judge that the child was in the custody of a third party by name Lakshmipathy, who is also a brother of the 1st respondent herein. Further, the child had not been taken abroad though the appellants herein are permanent residents of Dubai. Therefore, the learned Single Judge issued a direction that the appellants herein must hand over the custody of the minor child to respondents 1 and 2 and that respondents 1 and 2 may retain the custody of their child till 05.06.2024. The learned Single Judge further observed that the appellants herein have no right to hand over the custody of the child to one Lakshmipathy, who may be his brother as well as the brother of the 1st respondent. It is this order which is under challenge in this appeal.

4. Learned counsel for the appellants, during the course of arguments, submitted that the appellants have no serious objection for interim custody.



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5. From a perusal of the case file, it is seen that during the pendency of the appeal before this Court, an interim order has been granted to the effect that the impugned order dated 22.04.2024 and consequential order, if any, shall be kept in abeyance till 20.06.2024. By virtue of the said interim order, the order of the learned Single Judge has been kept in abeyance. The appellants, in fact, have filed the appeal without any cause or reason, just with an intent to put on hold the direction issued by the learned Single Judge on merits. This Court finds that the order passed by the learned Single Judge has been sabotaged by the appellants with ulterior motive and therefore, the appeal is liable to be dismissed with costs.

6. Considering the fact that the appellants have deprived the natural parents of their right for no reason, the appellants are directed to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as costs in favour of Tamil Nadu State Legal Services Authority attached to this Bench within a period of four weeks from the date of receipt of a copy of this order. It is open to respondents 1 and 2/natural parents to file a fresh application



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seeking custody and O.P. No. 716 of 2023 shall be disposed of as expeditiously as possible, preferably within a period of three months.

7. The Original Side Appeal stands dismissed with the above directions. No costs. Connected C.M.P. is closed.

nv

(S.S.S.R.J.) (K.R.S.J.)
05.08.2024



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