

ITEM NO.6

COURT NO.1

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).3111/2017

(Arising out of impugned final judgment and order dated 13-02-2017 in WP No.136/2016 passed by the High Court of Karnataka at Bangalore)

DR JARKALA MANOHAR HEGDE & ANR.

Petitioner(s)

VERSUS

SIDDHARTH RAI & ORS.

Respondent(s)

(and IA No.28446/2018-I.A FOR SEEKING ORDERS ON INTERIM VISITATION and IA No.28447/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.33453/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 13-03-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUDFor Petitioner(s) Mr. John Mathew, Adv.
Mr.James P.Arun Kumar, Adv.
Mr.Abishek Jebaraj, Adv.
Dr.Jarkala Manohar Hegde, Petr.No.1 In-personFor Respondent(s) Ms. Jasmine Damkewala, AOR
Mr.Dinesh Chander Trehan, Adv.
Ms.Urmiljit Mann, Adv.Mr.P.K.Dey, Adv.
Mr.Devashish Bharuka, Adv.
Mr.Nikhil Rohatgi, Adv.
Mr. B. V. Balaram Das, AORUPON hearing the counsel the Court made the following
O R D E R

On 05.03.2018, this Court had directed the petitioners and the respondent to remain personally present in the Court. In pursuance of our order, petitioner No.1 - Dr.Jarkala Manohar Hegde, maternal grand father of the child and respondent No.1 - Siddharth

Rai, father of the child, are present in the Court.

It is necessary to mention here, the notice was issued singularly on the ground whether the Karnataka High Court could have exercised jurisdiction in regard to legitimate custody of the child in question, who is presently living with the maternal grand father in Mumbai. The purpose of directing personal presence of the petitioners and the respondent on the earlier occasion was to make some interim arrangements pertaining to visitation rights. We do not intend to say anything on the jurisdiction of the Karnataka High Court. However, keeping in view the arguments advanced at the Bar, and the concession expressed by the petitioners, it is directed as follows:

(i) The first respondent shall go to Mumbai after giving due intimation to the petitioners or the counsel for the petitioners, whose telephone number shall be given by Mr. John Mathew, learned counsel for the petitioners to the counsel for the respondent.

(ii) As agreed to by the first respondent, he will have visitation rights, once in fortnight, on Saturday and Sunday. In view of that, it is directed that the child along with one of the grand parents shall meet the father within the Family Court premises at Bandra for which the Principal Judge, Family Court, Bandra shall make necessary arrangements.

(iii) If for some reason, the Family Court, Bandra is on holiday, the child can be taken to the nearest Mall, namely, R City, Ghatkopar Mall where he will spend the time with the father. As agreed to, the child can meet the father between 10.00 AM to 2.00 P.M. or 3.00 P.M. to 6.00

P.M. Respondent No.1 shall not take away the child from the premises of the Family Court, Bandra or from the R City, Ghatkopar Mall, and in that event, he will be liable for contempt of this Court.

(iv) The Family Court at Bandra, Mumbai shall dispose of the Guardianship Application within four months hence without being influenced by our interim order.

(v) This arrangement shall be given effect to after 10.04.2018 as the child is having examinations. To explicate, the first visit can take place on 14.04.2018.

(vi) In view of the interim arrangement, there is no justification for keeping the writ petition preferred before the High Court of Karnataka at Bangalore, forming the subject matter of Writ Petition H.C.No.136 of 2016, pending and accordingly the same shall be deemed to have been disposed of.

(vii) The concession given by the petitioners is without prejudice to the contentions raised in the Guardianship Application. The Guardianship Application be decided on its own merits, uninfluenced by any observation in the impugned order of the High Court or this order.

(viii) The petitioners shall extend the fullest cooperation for facilitating the right of visitation.

Before we part with the case, we must also note the undertaking given by the petitioners that they will not take the child out of India, in any circumstances, without the permission of the concerned Family Court.

The special leave petition is accordingly disposed of.

As a sequel to the above, pending interlocutory applications also stand disposed of.

(Chetan Kumar)
Court Master

(H.S.Parasher)
Assistant Registrar