

(2022) 07 KL CK 0044

In the High Court Of Kerala

Case No : Original Petition (CRL.) NO. 304 Of 2022

Aswathy

APPELLANT

Vs

Aneesh @ Kannan

RESPONDENT

Date of Decision : 05-07-2022

Acts Referred:

Citation : (2022) 07 KL CK 0044

Hon'ble Judges : Dr Kauser Edappagath, J

Bench : Single Bench

Advocate : Joseph George, P.A.Rejimon, Arun Mathew Vadakkan Vadakkan

Final Decision : Allowed

Judgement

Dr. Kauser Edappagath, J

1. Ext.P4 order passed by the Judicial Magistrate of First Class, Karunagappally (for short 'the court below') is under challenge in this original petition. The 1st petitioner is the wife of the 1st respondent. The 2nd petitioner is the child born out of the wedlock of 1st petitioner and the 1st respondent. Matrimonial dispute is pending between them.

2. The petitioners filed M.C.(DV) No.23/2021 before the court below for protection order as well as for monetary relief against the respondents.

3. The 2nd petitioner secured admission at Kendriya Vidyalaya, Pattom, Thiruvananthapuram in class I A for the academic year 2022-2023. He got admission in the service quota since his father, the 1st respondent, is a Central Government employee. Ext.P1 is the copy of certificate issued by the Principal, Kendriya Vidyalaya, Pattom, Thiruvananthapuram. The admission was given provisionally on condition of production of original service certificate of the 1st respondent. According to the petitioners, even though the 1st petitioner made several requests for getting the service certificate, the same was turned down by the 1st respondent. In these circumstances, the petitioners filed

C.M.P.No.1771/2022 at the court below to direct the 1st respondent to produce his original service certificate for securing admission of the 2nd petitioner at the Kendriya Vidyalaya, Pattom, Thiruvananthapuram. Ext. P2 is the said petition. The court below after hearing both sides, dismissed Ext.P2 as per Ext.P4 order. The said order is under challenge in this original petition.

4. I have heard Sri. Joseph George, the learned counsel for the petitioners and Sri. Arun Mathew Vadakken, the learned counsel for the respondents.

5. It is not in dispute that the 1st respondent is the father of the 2nd petitioner. The child is aged only 7 years. It is the basic human as well as the fundamental right of a child to have necessary education until it attains the age of 18 years. The 2nd petitioner is admittedly now under the care and custody of the 1st petitioner. She managed to secure admission at Kendriya Vidyalaya, Pattom. The admission obtained is in service quota. The admission was given on condition that the original service certificate of the 1st respondent has to be produced. The father/1st respondent is bound to give the service certificate in order to secure school admission for his child in the service quota. The objection raised by the 1st respondent appears to be very flimsy. If original certificate is not produced in time, definitely the child will lose admission. The court below turned down the prayer of the petitioner holding that the relief sought for by the petitioners will not come within in the ambit of the Protection of Women from Domestic Violence Act. It is the duty of the court to protect the interest of the child which includes education, especially when the parents are fighting each other. Hence, I am of the view that the impugned order is not sustainable and is liable to be set aside.

In the result, the original petition is allowed. Ext.P4 is set aside. Ext.P2 stands allowed. The 1st respondent is directed to hand over his original service certificate to the petitioners within one week from today.