

(2010) 11 AP CK 0024

In the Andhra Pradesh High Court

Case No : F.C.A. No. 330 of 2009 and C.C. No. 776 of 2010

G. Vishnudevendramma and Another

APPELLANT

Vs

G. Padmaja and Another
 G. Padmaja Vs G. Vishnu
Devendramma and Others

RESPONDENT

Date of Decision : 12-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 100
Guardians and Wards Act, 1890 — Section 17, 17(3), 25, 25(3)

Citation : (2011) 2 ALD 435 : (2011) 2 ALT 100 : (2011) 2 DMC 566

Hon'ble Judges : Vilas V. Afzulpurkar, J;V. Eswaraiyah, J

Bench : Division Bench

Advocate : K.G. Krishna Murthy, in F.C.A. No. 330 of 2009 and D. Goverdhana Chary, in C.C. No. 776 of 2010, for the Appellant; D. Goverdhana Chary in F.C.A. No. 330 of 2009, Anil Kumar Tandle and K.G. Krishna Murthy, in C.C. No. 776 of 2010, for the Respondent

Final Decision : Allowed

Judgement

Vilas V. Afzulpurkar, J.—This appeal is filed by the respondents 1/grandmother and respondent No. 3/minor against decree in O.P. No. 823 of 2008 on the file of Family Court, Ranga Reddy District at L.B. Nagar, Hyderabad.

2. Parties hereinafter be referred to as they are arrayed in the O.P.O.P. No. 823 of 2008 was filed by the petitioner/mother of minor seeking custody of her son from respondent No. 1/ the mother of the petitioner and maternal grandmother of the minor. The sister of the petitioner was also impleaded as respondent No. 2 as she is also said to be staying with mother-respondent No. 1. The minor child-respondent No. 3 was born to the petitioner on 30th August, 1994 and was aged about 14 years on the date of filing of the said O.P. and is now aged about 16 years. The petitioner filed O.P. No. 823 of 2008 seeking permanent custody of the minor, in the following circumstances as alleged in the petition. The petitioner claims that she was married to one Narayana Reddy on 5-12-1993 and after the petitioner left the company of her husband, she came to her mother's house in

July, 1994 for the purpose of delivery. On 30-8-1994, minor was born. The petitioner had filed an application in O.P. No. 671 of 2001 before the Judge, Family Court, Hyderabad, for divorce from her 1st husband which was allowed on 27-8-2003. Thus the petitioner continued to stay in the house of the 1st respondent along with her son. She further alleged that she was married to one Mr. Vipul Patel on 19-6-2007 and after the said marriage, she had been residing in her husband's house at N.T.R. Nagar while the minor continued to reside with his grandmother/1st respondent. Petitioner alleged that she has been requesting the 1st respondent to give custody of the minor as petitioner was capable of looking after his welfare better than the 1st respondent; keeping in view the old age and ailment of the 1st respondent. She however alleged that the 1st respondent bluntly refused custody with ill-motive and malafide intention and also refused visiting rights to petitioner. Petitioner also alleged that her younger sister respondent No. 2 is also not allowing the her to see her minor child. It is alleged that the petitioner ultimately gave a legal notice under Ex.P.1 dated 12-6-2008 seeking custody of minor child. But, the 1st respondent refused by giving a reply notice under Ex.P.2 dated 21-6-2008 and therefore, the petitioner filed the present O.P. in July, 2008.

3. 1st respondent filed a counter admitting the petitioner's allegations with regard to 1st marriage, birth of the child, divorce and that the petitioner was staying at the house of the 1st respondent along with her son. The 1st respondent also alleges that she being the natural mother of the petitioner, gave moral protection and allowed petitioner to stay in her house. But the allegation that the petitioner is interested in the welfare of the minor child was denied. She also alleged that she was not aware of the remarriage of the petitioner with Vipul Patel and the rest of the allegations were denied by asserting that the minor is studying in an appropriate school for which the 1st respondent is paying the necessary charges and taking utmost care of the minor child by providing food, shelter and good education including giving him medical assistance by consulting doctors through 2nd respondent-her younger daughter. She also alleged that petitioner was mentally disturbed during the failure of her 1st marriage and even today, she is not able to take the proper care of the child as the petitioner has to attend the clinic and come to the house at late hours. The allegation of old age and health of the 1st respondent was denied. It was also denied that she ever refused petitioner's visitation or did not allow the minor child to go to the petitioner. She also asserts that minor child has been reared up by her, being his maternal grandmother, since the date of his birth and that no amount was spent by the petitioner towards his maintenance besides education fee of the child except few times and that the petitioner never made any attempt to know the progress of the child either while growing up nor from the doctors regarding his health and did not ever celebrate the birthdays of the child. She asserts that she has, with the help of 2nd respondent, admitted the child in the best school and providing good education by paying fees and other charges and it is the minor child who is reluctant to go to the petitioner on account of bad impulse created

on his mind by the 2nd marriage of the petitioner. She therefore asserts that custody of the child with her would be more secured.

4. On these rival pleadings, the Family Court recorded oral evidence of petitioner as P.W.1 and 1st respondent as R.W.1 and that of the minor child as R.W.2 and marked Exs.P.1 to P.7 for the petitioner and R.1 to R.14 for the respondent and after taking into consideration of the entire evidence, came to a conclusion that the petitioner being the natural mother, is entitled to the custody of the minor child and allowed the O.P.

5. It is also necessary to notice that pending the O.P., petitioner had filed an application for interim custody in I.A. No. 257 of 2008 which was dismissed and against that C.R.P.4720 of 2008 was filed before this Court. By interim order therein dated 15-6-2009, the petitioner was permitted to meet the minor child on the dates and time specified in the school premises in the presence of junior advocates of both sides who were directed to file reports by the next date of hearing. This Court thereafter considered the main C.R.P. and disposed of the same by order dated 13-7-2009 after considering the reports relating to the visits directed under the interim order. This Court also interviewed the minor child along with all other parties who were also separately examined. It was recorded that Respondents 1 and 2 categorically stated that they have no objection to send the minor child to the petitioner, but the child is not willing. During the interview of the child, the unwillingness of the child to go to his mother was also recorded and the revision petition was disposed of by directing the trial Court to dispose of the O.P. expeditiously within three months. It may be mentioned that pending this appeal also, while initially the impugned order of the Family Court was stayed, on application made by the petitioner/mother for vacating the interim order, the said application was duly considered by the Division Bench of this Court vide order dated 24-2-2010; operative portion whereof is as follows:

The evidence available on record goes to show that the minor child is not willing to live with his natural mother, but he is inclined to stay with maternal grandmother only. However, we are of the opinion that the natural mother cannot be deprived of her right to show her love and affection though she married another person after obtaining divorce. The natural father has no interest in the minor child. Even though the child is not willing to go with the natural mother, we are of the opinion that the mother is entitled to visit her minor child.

Having regard to the facts and circumstances of the case, the petitioner herein, natural mother of the child is entitled to visit her minor child twice in a week on every Sunday and Thursday between 4.00 pm., and 6.00 p.m., commencing from 18-4-2010. The petitioner shall visit the minor child on Sunday at Saibaba Temple, Dilsukh nagar and Thursday at Astalakshmi Temple, Kothapet, L.B. Nagar pending further orders.

6. This Court again heard the said application and by interviewing the parties

including the minor child, passed the following order on 29-4-2010, the operative portion of which is as follows:

This Court granted stay of the said order on 29-12-2009. Pursuant to the order passed by us on 24-2-2010 the petitioner was able to visit the boy twice only i.e., on 18th and 22nd April, 2010. But, subsequently, the petitioner was being denied the said visiting rights. Though the boy is not willing to spend any time with his mother and states that none of the respondents have no objection for the mother to visit the boy in the house of the 1st respondent where the 3rd respondent is also residing with her husband and son in a separate portion belonging to the 1st respondent, we are of the opinion that as there are strained relations among the parties, the boy may not be able to move freely with his mother and it may not be possible for the petitioner-mother also to show her love and affection in an atmosphere which is not congenial.

As the boy has appeared for the S.S.C. examinations and is going for coaching in Sri Chaitanya Techno Schools, L.B. Nagar, in Bi.P.C. (Medicon) group and attending classes from 17th April onwards from 8.00 a.m., to 3.30 p.m., according to the 1st respondent, but the petitioner says that the said classes are from 8.00 a.m., to 12.30 p.m., upto 15th May, 2010, we are not inclined to express any opinion on this controversy. But, having regard to the facts and circumstances of the case, the petitioner being natural mother and keeping in view of the welfare and future of the boy, the boy cannot forego the love and affection of his mother, as the grand mother is being old and aged about 70 years, the 3rd respondent being the mother's sister alone cannot be expected to take care of the welfare and future of the minor child as that of his natural mother, we permit the petitioner to take her son 2nd respondent herein by 5.00 p.m, on every Saturday and keep the boy with her till 7.00 a.m., on Monday and hand over the custody of the boy to the 1st respondent by 7.00 am., on Monday every week. The petitioner is entitled for the said interim custody like this on every weekend beginning from 1st May to 31st May, 2010. The boy shall be produced before this Court on 31st May, 2010 by the mother.

List this matter on 31-5-2010.

7. It appears that the petitioner received the custody of the child on 1-5-2010 and the child remained with her till 3 P.M., on 2.5.2010 when he was returned back to the custody of the 1st respondent. However, on 8-5-2010, allegedly, the boy refused to go to the petitioner whereupon the petitioner claimed that respondents 1 and 2 have tutored the boy against the petitioner and is deliberately not sending the minor child in compliance with the order of the Court. She therefore filed complaint with the police and she also filed C.C. No. 776 of 2010 on reopening of the Court on 2-6-2010. In C.C.776 of 2010, notice before admission was ordered by this Court on 10-6-2010 and thereafter, further it was heard by us on 20.8.2010. During hearing, we recorded that it would be appropriate to hear F.C.A.330 of 2009 along with this C.C. We had therefore adjourned the matter directing the office to obtain appropriate orders for listing

of the C.C. along with the F.C.A. Accordingly, office obtained the appropriate orders and listed these matters before us.

8. We have heard the learned Counsel for the parties. Apart from stressing the chronological events as above, learned Counsel for the respondent No. 1/ appellant contended that Sections 25(3) R/w Section 17(3) of the Guardians and Wards Act, 1890, (herein after referred as "the Act") are attracted on the facts and circumstances of the case as the minor child is old enough to form an intelligent preference; his preference for staying with the 1st respondent/ grandmother, may be taken into consideration by this Court. He also points out that the trial Court has ignored the aforesaid provision and it has also not kept in mind the decision of the Supreme Court cited before it in Nil Ratan Kundu and Another Vs. Abhijit Kundu,

9. Learned Counsel also relied upon the cross-examination of P.W.1 that in the divorce proceedings of petitioner and her 1st husband, there is no mention about the custody of the child. It was therefore, suggested to P.W.1 that the child was decided to be brought up by grandmother i.e., 1st respondent and that she admitted the child to the school. P.W.1 further stated that it was against her will. She claims that she was paying maintenance charges to her mother-1st respondent and she used to directly pay the school fees. In the cross-examination however she says that amount of such payments are not mentioned in the petition. She was given specific suggestion that she has not paid any amount to the 1st respondent towards maintenance except sometimes paying the school fees. She also accepts that neither her mother nor her sister objected to her second marriage. She also accepts that minor child visited the Court after filing of the main O.P. and stated before the Court that he is not inclined to go with his mother and wanted to stay with grandmother.

10. Learned Counsel also relied upon United Nations Conventions on the Rights of the Child which will be discussed at appropriate place.

11. Learned Counsel for the appellant also places reliance on Dhanwanti Joshi Vs. Madhav Unde, which is held that father cannot have preferential right to custody as against the mother on the ground of his having superior financial capacity. A decision of this Court in L. Chandran Vs. Venkatalakshmi and Another, is also relied upon that even the parents do not have preferential unlimited right to custody without reference to welfare of the minor child.

12. Per contra, learned Counsel for the respondents contends that the child admittedly has been in the custody of grandmother-1st respondent and is obviously tutored and his preferences are not voluntary. Learned Counsel points that the petitioner-mother was with the minor child till 2007 i.e., upto her 2nd marriage and resided in the same house of the 1st respondent along with the minor child. Only after her second marriage that she was denied custody and visitation to the minor child whereupon, she was constrained to file O.P. in June, 2008. The learned Counsel places strong reliance on the evidence of petitioner as

P.W.1 that she and particularly her husband, is also interested in the child and that even after the second marriage, the boy will not be neglected and that she has decided not to have any child out of second marriage. Counsel therefore states that when so much sacrifice is shown by the petitioner, there is no reason to deny her custody of child as she is the natural mother whose custody was rightly preferred by the lower Court as against that of the 1st respondent/grandmother. Learned Counsel submits that it is only on account of the 2nd marriage being liking to the 1st and 2nd respondents that they are holding on the custody of the minor child of the petitioner and they have also denied visitation rights to the petitioner, in spite of the order by this Court, as narrated in the Contempt Case. Learned Counsel places further reliance upon the affidavit, counter affidavit and reply affidavit filed by the 1st respondent in the Contempt Case to substantiate his case.

13. On these rival contentions, the point that arises for consideration is whether the petitioner/mother is entitled to custody of the minor child as against the said custody being with the 1st respondent/grandmother.

14. As the point for consideration above itself indicates, the question posed for decision in this appeal, if answered in favour of the petitioner/mother, the same would be against the preference indicated by minor himself during the interview by this Court as well as in his evidence as R.W.2. On the contrary, if the said question is answered against the petitioner-mother, it may amount to denying custody of her son to her in preference to the maternal grandmother of the minor. We therefore answer this difficult question with reference to the facts and circumstances of the case having due regard to the paramount consideration of the welfare of the minor child, only.

15. Section 25 of the Guardians and Wards Act, 1890 reads as under:

25. Title of guardian to custody of ward.

(1) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return and for the purpose of enforcing the order may cause the ward to be arrested and to be delivered into the custody of the guardian.

(2) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by Section 100 of the Code of Criminal Procedure, 1882 (10 of 1882).

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

16. The term "welfare" used in the above provision has been interpreted in several decisions of the High Courts as well as of the Supreme Court. It would be useful to notice the significance of the said "term" as interpreted by the Honourable the Supreme Court in decision 2nd cited. The Supreme Court noticed

the following extract:

Lindley, L.J. in McGrath (infants), ReCh (1893) 1 Ch.143 : 62 LJ Ch.208 stated that:

...the welfare of the child is not to be measured by money alone nor by physical comfort only. The word "welfare" must be taken in its widest sense. The moral and religious welfare must be considered as well as its physical well-being. Nor can the ties of affection be disregarded.

17. Supreme Court also noticed the judgment of Hardy Boys, J. of the New Zealand Court said in Walker v. Walker and Harrison 1981 New Ze Recent Law 257 which reads as follows:

Welfare is an all-encompassing word. It includes material welfare, both in the sense of adequacy of resources to provide a pleasant home and a comfortable standard of living and in the sense of an adequacy of care to ensure that good health and due personal pride are maintained. However, while material considerations have their place they are secondary matters. More important are the stability and the security, the loving and understanding care and guidance, the warm and compassionate relationships, that are essential for the full development of the child's own character, personality and talents.

18. In the above decision of the Supreme Court, it had considered competing rights between the father and mother where father was claiming superior financial capacity. In the case on hand, such question does not directly arise but the interpretation of the word "welfare" as mentioned above is relevant.

19. In Rosy Jacob Vs. Jacob A. Chakramakkal, it was held that object and purpose of Guardians and Wards Act is not merely physical custody of the minor but due protection of the rights of the wards health, maintenance and education. Power and duty of the Court under the Act is the welfare of the minor. In considering the question of welfare of a minor due regard has of course to be given to the right of the father as natural guardian, but if the custody of the father cannot promote the welfare of the child, he may be refused such guardianship.

20. In the light of the above legal principles, we find from the evidence on record that petitioner was separated from her first husband during pregnancy of eight months and since then she was staying with her mother. She stated that she was not having any income then and as she has no shelter, she was living with her mother. She further states that after delivery, she joined in the job after 25 days where the duty hours were from morning 10 A.M., to 4 P.M., She further states that the minor child was taken care of by the 1st respondent-mother during petitioner's duty hours. She further states that the petitioner was earning Rs. 2,800/- per month towards salary and the petitioner thereafter worked at Meena Hospital from 2001 to 2006. She further states that the duty hours were from 8 P.M., to 8 A.M., while the minor son during that period was studying at Dilsukh

nagar Public School in 4th standard and school timings were from 9 A.M., to 3 P.M., She further states that earlier thereto, she worked at Sravana Nursing Home as a duty doctor in the year 1987 and worked at Anitha Nursing Home at Malketpet in the year 1988 for six months and that Anitha Nursing Home is also known as Navya Nursing Home during 1990 to 1993. She further stated that she was working under Dr. Janardhan Reddy from 1993 onwards till date.

21. During all these periods, minor child was with the 1st respondent/grandmother and during this period, petitioner's first marriage was dissolved by a decree of divorce on 27-8-2003 and she got remarried to one Mr. Vipul Patel on 19-6-2007 and thereafter left the 1st respondent's house but the minor child continued to reside with the 1st respondent. The above facts stated by the petitioner herself shows that right from 25 days of the birth of the minor, it is the 1st respondent/grandmother who has taken care of the minor in all respects as the petitioner/mother was throughout engaged in the jobs and at odd duty hours. The present claim for custody of the minor is made by the petitioner in July, 2008 and by then, the minor child had spent 14 years under the custody and care of the 1st respondent/grandmother and he is now aged 16 years. As mentioned in the portions extracted above, the material welfare of the child includes stability, security, living environment and understanding care and guidance with which the minor child is acquainted for the last 16 years. It is also on record that the child is showing consistently good performance in education which is evidenced by the fact that in S.S.C. Examination this year, he got 556 out of 600 marks; which is a very impressive academic record. The minor child is now said to be studying intermediate in Sri Chaitanya Junior Kalasala and the intermediate examination being crucial for shaping carrier of a student, ensuring that the minor child is not disturbed from his environment at home appears to us to be crucial circumstance with respect to his welfare.

22. The other circumstances which we have to statutorily take into consideration is with regard to the wishes of a minor child. This is not a case of child of a tender age but that of the child who is in the age group of 14 to 16. The child being intelligent, is not in doubt. The trial Court also declared the minor child as the competent person to give evidence and his affidavit in lieu of chief examination as R.W.2 was received and his cross-examination was also recorded by the Court. Minor child has stated in the affidavit that he did not want to go with his mother because from his childhood, he lived with his grandmother and except grandmother's house, he does not know any others house because his mother did not take him anywhere in holidays and also did not attend any function with him. He stated that till date, he is under care and custody of his grandmother in all respects i.e., food, health and good education. Even if we ignore his affidavit in lieu of chief, as it could have been prepared at the instance of respondents; his cross examination is worth noting. He states that "his grandmother will look after and take care of his interest even though she is old" "while grandmother will look after and take care of my interest even though she is old, after I grow I take care of myself and my grand mother has not brought

any pressure or given any threat to me not to join my natural mother I do not want to go to my natural mother." (There appears to be a mistake in recording this sentence).

23. "It is not true to say that my grandmother is trying to grab a share of the property which I will be getting and thereby not allowing me to join my natural mother". Even when this Court had interviewed the parties including the minor child, it was recorded that minor child is not willing to spend any time with his mother and stated that the grandmother or his aunt has no objection for the mother to visit the house of his grandmother. The preference of the minor child, if he is intelligent enough, is one of the factors which is required to be taken into consideration as per the mandate of Section 17(3) the Act. 17(3) reads as follows:

17 (1) xxxx

17 (2) xxxx

17 (3): "If minor is old enough to form an intelligent preference, the Court may consider that preference

24. As already discussed above, minor child is intelligent and old enough and on more than one occasion, he has expressed his desire to remain in the custody of grandmother rather than his mother.

25. The Honourable Supreme Court considered a similar matter in Kirtikumar Maheshankar Joshi Vs. Pradipkumar Karunashanker Joshi, where claim for custody between the natural father and maternal uncle was considered by the Supreme Court. The two minor children in that case were in the age group of 13 and 11, respectively, were interviewed by the Honourable Supreme Court apart from interviewing the parties. When the minors expressed their desire to continue to stay with the maternal uncle rather than their father; keeping in view their state of mind and finding that the welfare of the children was in favour of continuing their custody with the maternal uncle, custody to the natural father was denied. In the decision 1st cited i.e., NIL RATAN KUNDU And Anr. v. ABHIJIT KUNDU which was cited before the Court below and also before us by the learned Counsel for the appellant also, is a case where the minor child was aged 5 years was under custody and care of the maternal grandfather and grandmother while the father was seeking their custody. After an elaborate consideration of the legal position as well as after noticing Section 17(3) of the Act referred to above, the Supreme Court recorded its conclusion in paragraphs 66 which is extracted as hereunder:

In our considered opinion, the Court was not right. Apart from the statutory provision in the form of Sub-section (3) of Section 17 of the 1890 Act, such examination also helps the court in performing onerous duty, in exercising discretionary jurisdiction and in deciding the delicate issue of custody of a tender-aged child. Moreover, the final decision rests with the court which is bound to

consider all questions and to make an appropriate order keeping in view the welfare of the child. Normally, therefore, in custody cases, wishes of the minor should be ascertained by the Court before deciding as to whom the custody should be given.

26. In that case, the child was also examined by their Lordships and in para 72 it was recorded as follows:

We have called Antariksh in our chamber. To us, he appeared to be quite intelligent. When we asked him whether he wanted to go to his father and to stay with him, he unequivocally refused to go with him or to stay with him. He also stated that he was very happy with his maternal grandparents and would like to continue to stay with them. We are, therefore, of the considered view that it would not be proper on the facts and in the circumstances to give custody of Antariksh to his father, the respondent herein.

27. The U.N. Convention records in para 1.9 that there are a wide range of laws in India which guarantee to a substantial extent the rights and entitlement as provided in the Constitution and in the UN Convention. It also referred in para 1.12 that in 1974, the Government of India adopted a National Policy for Children wherein several welfare measures are provided including creation of a National Children Fund. It is in the backdrop of these legislation and steps taken by Government of India, it joined a comity of Nations and reaffirmed the commitment to advance the cause of children by endorsing and signing the world declaration. The aforesaid convention was ratified by Government of India on 12-11-1992 and has taken all measures for implementing for convention. Learned Counsel relied upon Article 3 which mandates that in all actions, best interests of the child shall be a primary consideration. Article 2 envisages that the each State party shall endeavour to protect the child against all forms of discrimination or punishment on the basis of status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members. Article 12 is mainly relied upon which states that the "State party shall assure to the child who is capable of forming his or her own views, the right of express those views freely in all matters affecting the child and the views of the child being given due weight in accordance with the age and maturity of the child. Article 13 is also relied upon which recognising that child shall have right to freedom of expression.

28. It is also to be noted that Article 41 of the Convention provides as follows:

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State Party; or
- (b) International law in force for that State.

29. It would be evident from the above that the U.N. Convention would not affect

any provision of a domestic law which is more conducive of the realisation of the rights of the child. The reference to Guardians and Wards Act, 1890 is already found in para 1.9 referred to above and the reliance of the learned Counsel on Articles 12 and 13 of the Convention that if the child is capable of forming and expressing his views, in all matters affecting child, his views are required to be given due weightage, already find place in Section 17(3) of the Guardians and Wards Act referred to above. In that view of the matter, Section 25 as well as Section 17 of the Guardians and Wards Act sufficiently take care of the welfare aspect together with intelligent preference and views of the child who is capable of making intelligent preference with respect to his or her custody. As mentioned earlier, in the present case, the minor child is now aged 16 years and studying intermediate. In our opinion therefore, his intelligent preference deserves to be given weightage and as already mentioned above, it would not be in the interest of the minor to disturb him from grandmother's custody and the environment to which he is well accustomed to during the past 16 years. The trial Court has not approached the issue from proper perspective. We are therefore constrained to set aside the impugned order by allowing the appeal.

30. Accordingly, the appeal is allowed. However, there shall be no order as to costs.

C.C. No. 776 of 2010:

Since main appeal has been disposed of on merits, and the record of the case also shows that the 1st respondent- grandmother has never refused the minor child from going to petitioner-mother, the non-compliance of part of the order of this Court regarding interim custody to the petitioner, cannot be said to be an act of wilful disobedience warranting initiation of contempt proceedings against the 1st respondent-grandmother.

31. The Contempt Case is accordingly dismissed.