

(2013) 05 KL CK 0003
In the High Court Of Kerala
Case No : OP (FC) . No. 1646 of 2013 (R)

Haridas

APPELLANT

Vs

Latha, Sreya Haridas and Sredha Haridas

RESPONDENT

Date of Decision : 24-05-2013

Acts Referred:

Citation : (2013) 05 KL CK 0003

Hon'ble Judges : P.D. Rajan, J;Antony Dominic, J

Bench : Division Bench

Advocate : V.G. Arun and Sri. T.R. Harikumar, for the Appellant; G. Balamuraleedharan (Paravur) Advocate by R1 and Sri. N.T. Nandakumar (Paravur) Advocate by R1, for the Respondent

Final Decision : Dismissed

Judgement

Antony Dominic, J.—Petitioner and the 1st respondent were husband and wife. He filed G.O.P. 352/12 for the custody of the children. That proceedings is pending consideration of the Family Court, Irinjalakuda. In that proceedings, the petitioner filed IA No. 499/13 seeking interim custody of two children, viz., Sreya Haridas and Sredha Haridas, who are studying in standards 6 and 4 respectively. By Ext. P12 order, the Court declined the prayer of the petitioner, but however, taking note of the fact that he is the father of the children ordered that during the summer vacation, the children can be given in the custody of the father for one day during day time and that too in the presence of the Sheristadar of the Court. Counsel for the petitioner states that the petitioner enjoyed the custody of the children for one day. However, the petitioner has filed this OP seeking to challenge the order of the Family court since it has rejected his application for interim custody. When the case came up for orders on 21/5/13, we heard the matter at length and had also gone through the pleadings. We were satisfied that the reasoning of the Family Court as contained in the impugned order were unassailable and that the order did not call for any interference. However, counsel for the petitioner told us that the children were keen to be in the

company of the father and that it was even without ascertaining the wishes of the children that the order was passed. In view of the submission so made, in order to ascertain the wishes of the children, we directed the 1st respondent to produce the children before this Court. Accordingly, the children were brought to the Court today and we interacted with them also.

2. During our interaction, both the children were unanimous in their refusal to go with their father and they apparently were very happy and comfortable in the company of their mother. The response of the children therefore belies the claim of the petitioner that the kids were keen to join his company. In such circumstances, we see no reason to interfere with the order. At this stage, learned counsel for the petitioner takes exception to certain observations in Ext. P12 order, which according to the petitioner described him as a paranoid. These observations, in our view, only reflect the prima facie interpretation of the Court and are not pronouncements on appreciation of the rival contentions or evidence and therefore cannot influence the Family Court when the petition is finally taken up for disposal.

Clarifying the position as above, we confirm Ext. P12 order and the OP is therefore dismissed.