
(2022) 05 KL CK 0075
In the High Court Of Kerala
Case No : Writ Pettion (CRL.) No. 363 Of 2022

Mebee Boban

APPELLANT

Vs

Station House Officer

RESPONDENT

Date of Decision : 19-05-2022

Acts Referred:

Citation : (2022) 05 KL CK 0075

Hon'ble Judges : K.Vinod Chandran, J;C. Jayachandran, J

Bench : Division Bench

Advocate : Nireesh Mathew, E.C.Bineesh, Peeyus.A.Kottam

Final Decision : Disposed Of

Judgement

K. Vinod Chandran, J

1. The petitioner and the 4th respondent are the divorced parents of a 5 year old child, who is said to be in the illegal custody of the father, the 4th respondent. A Division Bench of this Court directed production of the child before Court, especially since the allegation was that the father took the child, for 10 days as per the agreement entered into, but refused to return the child. The child was produced before court and a Division Bench had directed the child to be given to the custody of the mother for an initial period of 10 days.

2. The child was again produced before us by the mother. The child is of an impressionable age and appears to be tutored, on our interaction in Chamber. We, hence heard the counsel in Court. The 4th respondent, father is employed in the Merchant Navy and is intermittently sailing. The 4th respondent's contention is that the petitioner has entered into a marriage and hence he took the child.

3. We notice from the agreement produced as Ext.P3 that though it bears the case number of the proceedings for divorce, which concluded as per Ext.P1, there is nothing to show an endorsement made by the court. In any event, considering the fact that the child is about to start his regular schooling and the

distance between the residences of the petitioner and the 4th respondent; the arrangement in Ext.P3 is no more workable. We, hence put a suggestion to the parties that the father, the 4th respondent would have custody on the second and fourth weekends when he is in station and also during the Onam and Summer Holidays. As far as the Christmas holidays are concerned, the father and mother will have custody alternatively.

4. On agreement between parties, the arrangement for the custody of the child shall be as follows:

1. The mother the petitioner has the permanent custody of the child for the present especially considering his age.

2. The father, the 4th respondent shall have custody of the child on the 2nd and 4th weekends of a month. The 4th respondent shall take the custody of the child on the evening of Friday, before 5'0 clock or any other time convenient to him during the next two days, from the house of the petitioner. The child shall be handed back to the petitioner, positively before 5:00 p.m on Sunday itself, de hors the time when the father takes the child into his custody.

3 The father shall also have custody during the Onam and Summer holidays from the day on which the holiday commences and child returned to the custody of the mother two days before the school commences.

4. As far as the Christmas vacations are concerned, the parties shall have custody in the alternative years and when, during any year, the father is unable to take custody, due to his pre-occupations, then the custody shall be given to the father in the next coming Christmas vacations.

5. We make it clear that our directions shall not restrain either of the parties from approaching the Family Court for custody in which event the Family Court would be entitled to consider the custody application but however not disturbing the interim arrangement made by us till the final disposal of that petition.

Writ Petition is disposed of accordingly.