

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2471-2473 OF 2016
(Arising out of SLP (c) Nos. 28565-28567 of 2014)

TATINENI MAYURI

APPELLANT

VERSUS

EDARA BALDEV

RESPONDENT

J U D G M E N T

KURIAN, J.

1. Leave granted.

2. The marriage between the appellant and respondent took place on 2.9.1999. A female child was born to them on 15.06.2006 and she has been named Jasmitha. In the year 2011, the appellant filed a petition before the Family Court for divorce. The Family Court allowed the petition and granted decree of divorce. Permanent custody of the child was given to the appellant-wife and the respondent-husband was given visitation rights during weekend.

3. Aggrieved, the respondent-husband approached the High Court. By impugned judgment dated 25.07.2014, the High Court allowed the appeals and remanded the matters to the Family Court with a direction that the arrangement as to the custody

of the child would be continued purely as an interim measure, during the pendency of the matters before the Family Court.

4. Aggrieved, the wife has come up before this Court in appeals. It appears that this Court tried several rounds by all possible methods to purchase peace between the parties. Respondent-husband was hopeful of reunion. It seems that his hope is fading away and now he has submitted that in case the appellant so insists, he is prepared for divorce on mutual consent on appropriate terms on all aspects including custody of the child.

5. Having heard the learned counsel appearing on both sides, we are of the view that in the interest of all the parties, the further steps should be taken before the Family Court, Hyderabad. We only want to remind both, the father and the mother, that they may fight endlessly but the one person who is sandwiched, disturbed, pained, shocked and if not spoiled is their daughter. If the future of the daughter is kept in mind by both the father and the mother, they will think of disassociating themselves from all other differences between them. We are sure the parties would be in a position to reach a workable solution with regard to custody. After all the child needs both father and mother.

6. With the above observations, we dispose of the appeals

directing the Family Court to take things forward and settle all the related aspects including custody of the child, bearing in mind the observation made by us hereinabove.

7. The High Court in the impugned judgment has directed that the arrangement made by the Family Court will continue as an interim measure. We are informed that the said arrangement has been subsequently varied by order dated 29.4.2015 after interacting with the child and thereafter the arrangement is that the child would be given in custody of father once in a fortnight from 10.00 a.m. to 5.00 p.m.

8. The custody as above, will be available with the father on first three Saturdays of the month between 10.00 a.m. to 8.00 p.m. that is to say, from the 1st week of April, 2016 onwards. As far as the other times like vacations are concerned, it will be open to the parties to file application before the Family Court. We also make it clear that this is purely a temporary arrangement and it is for the Family Court to pass appropriate orders as the situation warrants. Parties will appear before the Family Court on 25.04.2016.

9. In view of the apprehension expressed by the learned counsel appearing for the appellant, we make it clear that the impugned judgment will stand substituted by our order with the modification with regard to the further process on divorce.

The Family Court will make an endeavour to dispose of the matter expeditiously and preferably within six months from the date of first appearance as above.

10. The offer made by the respondent for deposit of Rs.50,000/- per month, in addition to the deposit of Rs.5,00,000/- will continue. In case, it is found difficult to work out the order as above, we grant liberty to the parties concerned to approach this Court.

.....J.
[KURIAN JOSEPH]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI ;
MARCH 03,2016



JUDGMENT