

Rajeendran vs Vijitha

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Court : Kerala

Decided On : May-31-2023

Judge : Honourable Mr. Justice a.Muhammed Mustaque,Honourable Mrs. Justice Sophy Thomas

Appeal No. : Mat.Appeal/280/2021

Appellant : Rajeendran

Respondent : Vijitha

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945
AGAINST THE ORDER/JUDGMENT IN GOP 1783/2018 OF FAMILY COURT, THRISSUR APPELLANT/RESPONDENT: RAJEENDRAN AGED 41 YEARS S/O. KRISHNAN NAMBEESAN, KARUMADATHIL HOUSE, KODANNUR P.O., SASTHAMKADAVU DESOM, AMMADAM VILLAGE, THRISSUR TALUK, THRISSUR DISTRICT-680563. BY ADV C.DHEERAJ RAJAN RESPONDENT/PETITIONER: VIJITHA AGED 31 YEARS D/O. GOVINDANKUTTY NAIR, KOZHIPARAMBIL HOUSE,

KARUMADATHIL HOUSE, KODANNUR P.O., SASTHAMKADAVU DESOM, AMMADAM VILLAGE, THRISSUR TALUK, THRISSUR DISTRICT-680563. BY ADVS. PREMCHAND M. K.ANITHA JOHN THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 31.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mat.Appeal No.280 of 2021 2 A.MUHAMED MUSTAQUE &

SOPHY THOMAS, JJ.

Dated this the 31st day of May, 2023

JUDGMENT

Sophy Thomas, J.

This appeal has been preferred by the father of the minor children Abhinav and Abhimanyu, challenging the judgment and decree of the Family Court, Thrissur, in GOP No.1783 of 2018.

2. The appellant/father is in permanent custody of the

children. The GOP filed by their mother for getting guardianship and custody was dismissed granting periodic visitation rights to the mother. The mother was permitted to have interim custody of the children from 10 a.m on every second Saturday till 5 pm on the following Sunday, and also during the first half of Onam, Christmas and summer vacations. Against the interim custody granted by the Family Court, the father has come up with this appeal. Mat.Appeal No.280 of 2021 3

3. Now we are called upon to answer whether the judgment

and decree of the Family Court is suffering from any illegality or impropriety warranting interference by this Court.

4. Heard learned counsel appearing for the appellant and the learned counsel appearing for the respondent.

5. The Family Court found that the mother of the children went out of the matrimonial home after preparing Ext.B1 letter on 30.10.2017. Even prior to that, she had filed a divorce petition

against her husband. But, she did not approach the court for getting custody of the children. She filed the guardian O.P after one year of leaving her matrimonial home. She did not opt to file a petition for interim custody of the children till the final disposal of the original petition. What did she seek was only custody during weekends and vacation. So, the Family Court rejected her O.P for guardianship and custody. We cannot find fault with the finding of the Family Court that the mother had no genuine interest in getting permanent custody of the children. Even then, being the mother she was given custody for two days in a month, Mat.Appeal No.280 of 2021 4 and also during the first half of Onam, Christmas and summer vacations.

We find no ground to interfere with the impugned judgment

and decree, and that is only to be upheld. In the result, the Mat.Appeal fails and hence dismissed. A.MUHAMED MUSTAQUE SOPHY THOMAS smp

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