

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944

OP (FC) NO. 385 OF 2022

AGAINST THE ORDER/JUDGMENTGOP 1916/2021 OF FAMILY

COURT, THRISSUR

PETITIONER:

SINDHU K.S, AGED 34 YEARS, D/O. LATE K.K
SREENIVASAN,
KALLAYILL HOUSE, ANJOOR P.O, CHERUVATHANI,
ANJOOR VILLAGE,
KUNNAMKULAM TALUK, THRISSUR DT, PIN - 682 523

MINOR

SREEHARI, AGED 9 YEARS, DATE OF BIRTH 09.04.2013

BY ADVS.
MILLU DANDAPANI
RONIT ZACHARIAH

RESPONDENT:

SUJITH M.R., AGED 39 YEARS, S/O. RAJAN,
MANIYANTHARA HOUSE, KANIPAYOOR P.O, KANIPAYOOR
VILLAGE,
KUNNAMKULAM TALUK, THRISSUR DT, PIN - 680 517

BY ADV MAHESH V MENON

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON
29.07.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J U D G M E N T

A. Muhamed Mustaque, J

This original petition is filed at the instance of the mother of the child. Paragraph 6 and 7 of the impugned order reads thus:

“After the said order granting interim custody to the father, the petitioner/mother has removed the child from the jurisdiction of this Court without informing the respondent and without seeking permission of the Court. In the event of allowing the present application it will have the effect of approving the petitioner's unilateral decision to remove the child from the jurisdiction of this Court. Moreover, the shifting of the minor to Bangalore has resulted in making the previous interim order ineffective. The resultant consequences is that the minor as well as his father will not be able to have any frequent access as per the interim order granted by this Court.

Considering all these circumstances, I cannot find any sufficient reasons to approve the unilateral conduct of the petitioner. If the petitioner wants to remain at Bangalore she can very well hand over custody of the minor boy to the respondent/father till the final disposal of the OP.”

2. Perhaps, chagrin by the conduct of the mother taking the child to Bangalore without permission of the Court, the Court passed such an order.

3. The mother was compelled to move to Bangalore because of her employment. The father is now stated to

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be at Oman. The concern of the Court always should be with the welfare of the child, merely because, prior permission was not obtained from the Court for moving to Bangalore cannot itself result in passing an order of this nature. Since, the father is now not in India, we do not find any hardship is caused to the father on account of shifting of the child along with the mother to Bangalore. We, therefore, set aside the impugned order. We make it clear that for any arrangement to have contact or custody, the father is at liberty to move the Family Court, Thrissur well in advance before he comes down to India subject to educational convenience of the child.

4. A request has been made before us by the learned counsel for the father that his parents may be allowed to have interaction with the child. We also allow the father to have interaction through video call on every Friday and Sunday between 7 pm to 8 pm. The mother shall bring the child to Thrissur atleast once in a three months preferably on any Saturday and Sunday convenient to the mother to allow the child to be in the company with the grandparents. The grandparents are allowed to have the

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custody of the child from on such Saturday at 11 am till the ensuing Sunday at 4 pm.

This original petition is disposed of setting aside the impugned order.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

Sd/-

SOPHY THOMAS

JUDGE

PR

APPENDIX OF OP (FC) 385/2022

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ORDER DATED 10.09.2021 IN IA 3/2021 IN GOP 500/21 PASSED BY THE FAMILY COURT THRISSUR
Exhibit P2	THE DISCHARGE SUMMARY ISSUED FROM MOTHER'S HOSPITAL DATED 25.06.2022
Exhibit P3	TRUE COPY OF THE LETTER DATED 15.06.2022 ISSUED BY THE PRINCIPAL, MAR DIONYSUS COLLEGE, PAZHANI
Exhibit P4	TRUE COPY OF THE LETTER DATED 10.02.2022 FROM SN GURU OPEN UNIVERSITY FOR INTERVIEW
Exhibit P5	TRUE COPY OF THE CATEGORY WISE LIST WHEREIN THE PETITIONER WAS INCLUDED AS SL. NO. 15
Exhibit P6	TRUE COPY OF IA 11/2022 WITH ACCOMPANYING AFFIDAVIT IN GOP 1916/2022
Exhibit P7	TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENT IN IA 11/2022 DATED 09.06.2022
Exhibit P8	TRUE COPY OF THE LIST OF THE DOCUMENTS PRODUCED IN IA 11/2022
Exhibit P9	THE OFFER LETTER DATED 16.04.2022 ISSUED TO THE PETITIONER
Exhibit P10	TRUE COPY OF THE TRANSFER CERTIFICATE DATED 27.04.2022
Exhibit P11	TRUE COPY OF THE RECEIPT DATED 10.05.2022 ISSUED FROM THE BRILLIANT NATIONAL SCHOOL
Exhibit P12	TRUE COPY OF RECEIPT DATED 10.05.2022
Exhibit P13	TRUE COPY OF THE RECEIPT DATED 14.04.2022

FOR THE FEES COLLECTED

Exhibit P14	THE REQUEST LETTER THAT HAS BEEN ISSUED AFTER ADMITTING SREEHARI IN BRILLIANT NATIONAL SCHOOL DATED 14.04.2022
Exhibit P15	THE TRUE COPY OF THE RENTAL AGREEMENT DATED 06.05.2022
Exhibit P16	THE TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER FOR VARIOUS POSTS INVITED BY KERALA PUBLIC SERVICE COMMISSION DATED 18.04.2021
Exhibit P16(a)	THE TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER FOR POST INVITED BY KERALA PUBLIC SERVICE COMMISSION DATED 01.05.2021
Exhibit P16(b)	THE TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER FOR POST INVITED BY KERALA PUBLIC SERVICE COMMISSION DATED 25.06.2021
Exhibit P16(c)	THE TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER FOR POST INVITED BY KERALA PUBLIC SERVICE COMMISSION DATED 08.10.2021
Exhibit P16(d)	THE TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER FOR POST INVITED BY KERALA PUBLIC SERVICE COMMISSION DATED 17.01.2022
Exhibit P17	TRUE COPY OF THE ORDER DATED 22.06.2022 IN IA 11/2022 IN GOP 1916/2021 PASSED BY FAMILY COURT THRISSUR