

ITEM NO.4 Court 10 (Video Conferencing)

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 7139/2021

(Arising out of impugned final judgment and order dated 23-04-2021 in MFA No. 2104/2019 passed by the High Court Of Karnataka At Bengaluru)

GAURAV RAJENDRA MITTAL

Petitioner(s)

VERSUS

SAKSHI MITTAL

Respondent(s)

(FOR ADMISSION and I.R. and IA No.63254/2021-EXEMPTION FROM FILING AFFIDAVIT and IA No.63253/2021-PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 25-05-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s)

Mr. Shivendra Singh, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

From the directions contained in the impugned order dated 23.04.2021, it appears that while requiring the petitioner-husband to pay the school fee of the children on or before 10.05.2021, the High Court directed the matter to be listed on 26.05.2021. The High Court also observed that during summer vacations, father shall be having visitation rights depending upon the arrangements made by way of consensus

between the parties and the views of the children as also having regard to the standard operating procedure relating to the pandemic.

The petitioner contends that the main matter remains pending even after the Family Court has given custody of the children to him by the order passed way back on 28.02.2019 and this Court having expected an early hearing of the appeal by the High Court.

In response to the queries of the Court, learned counsel for the petitioner has submitted that the petitioner has deposited the requisite school fees today.

Though, when the matter is posted before the High Court tomorrow i.e., 26.05.2021, we find no reason to consider interference at this stage. However, we deem it appropriate to observe that earlier, when the matter relating to interim custody of the children reached this Court in SLP(C) No. 26845 of 2018; and the said petition was rendered infructuous in view of the final order passed by the Family Court, this Court observed in the order dated 24.01.2020 as under:

".... Since the main matter has been disposed of by the Family Court, the relief sought for in this special leave petition does not survive for our consideration.

In such view of the matter, learned counsel for the parties are at liberty to move the High Court for early disposal of the pending M.F.A. No. 2104 of 2019. If such request is made the High Court may consider the same at an early date."

In view of the expectations in the order dated 24.01.2020 and the subject matter of this litigation concerning the custody of minor children, we cannot find fault in the petitioner's submissions that rather than hearing only on the interlocutory aspects, the main appeal itself deserves early consideration.

Having said so and having referred to the observations and expectations in the order dated 24.01.2020, we leave it open for the petitioner to make a request to the High Court for taking up the matter for final hearing at an early date.

We hope and trust that on such request being made, the same would be given due consideration by the High Court. As at present, we say no more.

Disposed of accordingly. Pending application also stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)