

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO.8160 OF 2011

Meenakshi Khandelwal Petitioner (s)

Versus

Shailesh Khandelwal Respondent(s)

ORDER

P. Sathasivam, J.

1) By consent of both the parties, the Principal Judge, Family Court, Raipur, vide order dated 01.02.2008, in Case No. 170-A/2007 dissolved the marriage of the petitioner and respondent herein, solemnized on 11.12.1999, by a decree of divorce.

2) On the application of the petitioner-mother, the Family Court granted her the custody of the daughter-Shrestha. The father of the child-respondent herein challenged the said order before the Division Bench of the High Court of Chhattisgarh at

Bilaspur. The High Court, by the impugned order dated 09.11.2010 in F.A. (M) No.79 of 2010 allowed the appeal filed by the father of the child and permitted him to retain the custody of the child. In the same order, the High Court granted visitation rights to the mother of the child. The said order is under challenge in this special leave petition.

3) Considering the interest and welfare of the child, who is presently aged about nine years and being a daughter, we directed both the parties including their daughter to appear before us in our Chambers on 23.04.2012. All three of them appeared on that day. Initially, we interacted with the child separately and ascertained her views. She expressed her grievance against her mother and prefers to stay with her father. She also informed us that she is comfortable with her father and would like to continue her education under his guidance only. Thereafter, we interacted with the petitioner and the respondent separately.

4) Taking note of the welfare of the child, which is paramount and also the right and entitlement of the petitioner-mother which is to be decided in this SLP, as an interim measure, we pass the following order:

- a) The father-respondent herein is directed to take the child-Shrestha to the Nagpur Bench Mediation Centre on 19.05.2012 at 10 a.m.
- b) The petitioner-mother is permitted to take the child-Shrestha alone in the presence of mediators at 10 a.m. and bring her back at 6 p.m. to the Mediation Centre and hand over the child to the respondent-father.
- c) In the same way, the respondent-father has to take the child-Shrestha to the Nagpur Bench Mediation Centre on 02.06.2012 and again on 09.06.2012.
- d) On all these dates, the respondent-father has to hand over the child-Shrestha to her mother at 10 a.m. in the presence of mediators and the petitioner-mother has to return the child at 6 p.m. to the father.

e) During these days, mediators are directed to observe the behavior and relationship of the child Shrestha with her mother and father and submit a report directly to this Court before 30.06.2012.

5) List on 09.07.2012 as Item No. 201 for consideration of the report of the mediators and for passing appropriate orders.

.....J.
(P. SATHASIVAM)

.....J.
(J. CHELAMESWAR)

NEW DELHI;
MAY 4, 2012.

JUDGMENT