

IN THE COURT OF THE V ADDITIONAL DISTRICT JUDGE, BODHAN

Present:- SRI S. RAVI KUMAR,
V Additional District Judge,
Bodhan.

Dated this the 27th day of December, 2024

G.W.O.P. No. 6 of 2023

Between:

Sri Sirlanchi Ashok, S/o Gangaram,
Caste: Vadla, Religion: Hindu, aged
about 42 years, Occ: Lecturer in
Madhumalancha Degree College,
Bellal, R/o Near new Bus Stand,
Bheemgal at present R/o C/o. Sirlancha
Ramesh, H.No. 1-86/10/5/A/1, Perkit,
Armoor, Dist. Nizamabad.

...Petitioner

AND

Smt. Sirlancha Swapna, W/o
Sirlanchi Ashok, D/o Anand Chary,
Religion: Hindu, aged about 35
years, Occ: Household, R/o H.No.11-
109, Near Gandhi Statue, Yedapally,
Dist. Nizamabad.

..Respondent

This petition has come before me on 19.12.2023 for hearing and disposal in the presence of Sri S.S.R. Koteswar Rao, Advocate for petitioner and Sri. B.Moahn Kumar, Advocate for Respondent and having stood over for consideration till this day, the Court has made the following:

:: O R D E R ::

1. The petition filed U/Sec. 7 (1) (2) r/w sec. 25 of the Guardian and Wards Act 1890, seeking to direct the respondent to hand over the custody of minor daughter/Hiranya Laxmi aged about 11 years to the petitioner/father permanently.

2. a) **The brief averments of the petition:-** The petitioner married the respondent on 03.06.2011 at Yedapally according to Hindu rights and ceremonies in presence of relatives, elders well wishers, friends etc., the entire marriage expenditure of Rs.1,00,000/- was born by the parents of the petitioner as the parents of the respondent are poor.

(b) After the marriage, the respondent joined the petitioner at Bheemgal, the marriage was consummated and they were blessed with a female child by name Hiranya Laxmi. The petitioner is a contract lecturer, worked at various locations, living with respondent separately by leaving his parents. The respondent is the elder daughter to her parents, having four sisters and used to go her parents, and every time the respondents thinks and discussed about her parents and sisters, frequently used the money of petitioner to the necessities of her parents. When the petitioner questioned and refused to give money, the respondent started inflicting cruelties mentally and physically upon him and abusing, insulting, maltreating to him.

(c) The respondent gave about 3 to 4 lakhs rupees, gold ornaments to her parents without knowledge and consent of petitioner still the petitioner never questioned her for not spoiling the image of petitioner and family in the society. The petitioner tried to mend the ways of the respondent, but she remained in different and adamant towards the petitioner and his parents.

(d) The respondent many times left the matrimonial home without the consent and intimation to the petitioner, The petitioner and his family members made many efforts to bring her back and on the advise of elders on 06.11.2028 the petitioner and respondent along with minor child setup the family at Bodhan, even after set up the family the respondent on petty issues picked up quarrel with him, intentionally started to go her parents house without information to the petitioner

and finally on 08.12.2018 the respondent left the matrimonial house of petitioner and made false complaint on him and his family members at Yedapally Police station, the police conducted family counseling, the elders tried to convince the respondent to join the matrimonial home of the petitioner for the welfare and future of minor child, but the respondent bluntly refused to joint and all the efforts and others are futile in bringing the respondent back to the matrimonial society.

(e) The respondent filed M.C.No.18/2019, DVC No.16/2019 and Sec. 498-A of IPC, Sec. 3 and 4 of DP Act vide CC.No.35/2020 to harass and humiliate the petitioner and those cases sill pending before the AJFCM, Bodhan, inspite of those cases, the petitioner, relatives and elders put several efforts and also sent a legal notice to the respondent on 03.05.2019 giving an opportunity to join the matrimonial company of petitioner and future welfare of minor child, restitution of conjugal rights, the respondent received the notice, but no response till date.

(f) The respondent finally on 08.12.2018 left the matrimonial home after quarreling with the petitioner. In the month of December, 2021 the petitioner filed a petition under section: 9 of Hindu Marriage Act on the file of Senior Civil Judge, Nizamabad vide O.P.No.8/2022 which is pending, which clearly shows that the petitioner is still ready to keep and maintain the respondent.

(g) The minor child Hiranya Laxmi aged about 11 years in the custody of the respondent. The petitioner being father and natural guardian, seeking the custody of his minor child on the following grounds:

- i. The environment of the house of the respondent is very bad in nature where minor child is residing. The respondent and her parents use very ugly language with each other.

ii. The respondent mostly remains out of her house due to which the future of the minor is being effected badly.

iii. The the behavior of the respondent and her family members are very rude, arrogant towards the minor child.

iv. The respondent is not taking care for the proper upbringing of the minor child namely Hiranya Laxmi. The respondent is unable to provide the good educational facilities and social culture to the said minor.

V. If the minor children will be allowed to live further with the respondent then their future would be ruined and he will become criminal in future.

vi. The petitioner is an educated person, at present he is working as Lecturer at Madhumalancha Degree College, Bellal, Bodhan, he can give the proper education to the minor child. The petitioner is having the line of teaching to the minor child and the petitioner will provide proper education, cultural education, moral education, social education, and general knowledge and develop the child mentally and physically strong in the society.

vii. The petitioner is keenly interested to support, welfare, provide good health, extreme good education and proper upbringing of minor child Hiranya Laxmi.

viii. The petitioner is able to look after the minor in better way with full love and affection. The Petitioner is only persons being the father of the minor who can make the bright future of minor child.

ix. The petitioner after completing his duty will give sufficient time to minor child for her development and growth. Besides this the parents of the petitioner will also take proper care of minor child in the absence of the petitioner.

X. The petitioner is fully able to give a good atmosphere to the minor child and also able to give best educational opportunities to the said minor child.

xi. The respondent is not proper person to retain the custody of minor child.

xii. Now the age of minor children Hiranya Laxmi is 11 years and as per the law the father/Petitioner is entitled to take custody of minor child.

(h) The respondent has neither been appointed nor has been declared as the lawful guardian of minor child Hiranya Laxmi by any court of law so far. The respondent has also not been lawfully entrusted the custody of said minor child by any order of the court.

(i) The petitioner requested the respondent number of times to handover the custody of minor child to him, but every time the respondent avoided to the legitimate requests of the petitioner on one pretext or the other and finally on 10.08.2023 the respondent bluntly refused to handover the custody of the minor daughter.

3. **The respondent filed counter** denying the allegations of the petitioner as false while admitting their marriage on 03.06.2011, their living at Bheemgal, consummating of marriage, blessing of the female child/Hiranya Laxmi, and now the child is in her custody and the petitioner is a lecturer, she is the eldest daughter to her parents and she is having four sisters, filing and pending of M.C.No.18/2019, DVC.No.16/2019, CC.No.35/2020 U/sec. 498-A IPC, Sec. 3 and 4 of D.P. Act, in December, 2021 the petitioner filing of OP.No.8/2022 on the file of Senior Civil Judge's Court, Nizamabad, and submit that the OP.NO.8 of 2022 on the file of Senior Civil Judge, Nizamabad was dismissed.

(b) Further submit that the child Hiranya Laxmi is about 12 years now, at the age of three years she under went heart surgery at Care Hospital, Hyderabad, but the petitioner did not care, not provided any

medical treatment to his daughter. The child also gets broncho pneumonia attacks, needs constant medical treatment.

(c) The petitioner harassed her to have a male child since birth of Hiranya Laxmi, and also used to harass for additional dowry of Rs.1,00,000/-. The petitioner used to consume liquor and come to the house in late hours, The petitioner being a lecturer used to take one single room on rent at the place he worked, without any facility and television, used to lock the door from outside when he went outside. The petitioner used to beat her and abused her for additional dowry.

(d) In the month of June, 2019 the petitioner and his family members necked out her from the house for an additional dowry, the petitioner also took her gold ornaments forcibly from her body.

(e) The petitioner is a cruel person and having no love and affection towards his wife and daughter, he never spent any amount for treatment of his minor daughter and cared for her or his wife. The petitioner is a drunkard and works as a lecturer, absent in the house from morning till evening, as such the custody of the minor daughter cannot be given to him.

(f) The minor daughter needs constant medical treatment with specialist doctors and she being her mother has love and affection towards her minor daughter and can look after her daughter, providing her medical treatment. The minor daughter is a heart patient, gets broncho pneumonia attacks and needs constant medical treatment and attention. The future and life of the minor daughter is safe in her hands and not safe in the hands of petitioner. Prays to dismiss the petition.

4. In spite of counseling to the petitioner and respondent by this court, there is no progress in the reunion of petitioner and respondent and also for peaceful settlement. During further enquiry, on

10.06.2024 the respondent brought the minor child Hiranya Laxmi and the petitioner present, on enquiry with the child, it is found that now she completed her sixth class and also state that she is not willing to go to her father. Though the compromise was proposed from both side, but it was not materialized.

5. During trial, on behalf of the petitioner, himself examined as Pw.1. On behalf of the respondent, herself examined as Rw.1.

6. Heard the learned counsel for petitioner and respondent.

7. Now the point for consideration, Whether the petitioner is entitled for the custody of the minor daughter/Hiranya Laxmi to the petitioner/father permanently?.

8. Point:

(a) The counsel for the petitioner submit that since the father is law full guardian for the minor children, and he being a lecturer able to prove better amenities to the development of the child then the respondent.

(b) The counsel for the respondent submits that till today the petitioner did not take care of the welfare of the child though this child was suffering from heart complaint and attacks of broncho pneumonia.

(c) Admittedly, the respondent was living separately from the petitioner from June, 2019 (as per the petitioner the respondent left him on 08.12.2018) and their child is living with the respondent. The Pw.1 in his cross examination clearly stated since 2018 the respondent and their child are living with the parents of the respondent and his salary in the 2018 was Rs.20,000/- and now Rs.50,000/-, though he state that on knowing the fact of maturity of their child he went to the respondent and child, gave amount of Rs.10,000/- respondent and

child, he never frequently visited the child and paid any amount for the welfare of the child.

(d) Since, the child now 12 or 13 years old, needs care and advise of mother and she is living with the mother/respondent since 2018 and there has been no affection towards her father, and the child also stated before this court on 10.06.2024 that she is not willing to go to her father.

(e) Since, the minor child now completed sixth class, now aged about 13 years, able to know what is what, she firmly stated before this court on 10.06.2024 that she is not willing to go to her father and the child is also living with her own mother, this court cannot act against the will of the minor child. Therefore, the petitioner is not entitled for the custody of his daughter Hiranya Laxmi.

9. In the result, the petition is dismissed with costs to the respondent.

Typed to my dictation by the stenographer grade-I, corrected and pronounced by me in the open Court on this the 27th day of December, 2024.

V Additional District Judge,
Bodhan.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Petitioner:-

For Respondent:-

PW.1: Sirlanchi Ashok.

Rw1: Smt. Sirlancha Swapna

EXHIBITS MARKED

For Petitioner:-

For Respondent:-

- Nil -

- Nil -

V Additional District Judge,
Bodhan.