

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN**

FRIDAY, THE 30TH DAY OF DECEMBER 2016/9TH POUSHA, 1938

OP (FC).No. 704 of 2016 (R)

**AGAINST THE ORDER/JUDGMENT IN OP 445/2014 of FAMILY COURT, PALAKKAD
DATED 28-04-2016**

PETITIONER:

**REMYA
AGED 24 YEARS, D/O.RAJAN, SURYA NAGAR,
KANJIKODE PO, PALAKKAD 678621**

**BY ADVS.SRI.RAJIT
SRI.C.DHEERAJ RAJAN**

RESPONDENT(S):

**SURESH KUMAR
AGED 33 YEARS, S/O.SIVARAMAN, ERUMENI HOUSE,
POOLAKKUNDU, KARIMBA PO, MANNAARKKAD,
PALAKKAD DISTRICT 678597**

**THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON 30-12-
2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (FC).No. 704 of 2016 (R)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 THE TRUE COPY OF THE JUDGMENT IN OP.NO. 445/2014 DATED
28.04.2016 ON THE FILES OF THE FAMILY COURT, PALAKKAD**

**EXHIBIT P2 THE TRUE COPY OF THE IA.NO. 2114/2016 FILED BY THE RESPONDENT
HEREIN SEEKING THE CUSTODY OF THE MINOR CHILD**

RESPONDENT(S)' EXHIBITS NIL

Rp

//TRUE COPY//

P.S. TO JUDGE

A.M. SHAFFIQUE & ANU SIVARAMAN, JJ.

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OP (FC) No. 704 of 2016

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Dated this, the 30th day of December, 2016

J U D G M E N T

Shaffique, J.

This original petition has been filed apprehending that the custody of the minor child Aiswarya will be handed over to respondent when an application filed seeking interim custody as IA No. 2114/2016 is proposed to be heard by the Family Court on 31/12/2016.

2. In fact, in Ext.P1 order dated 28/4/2016, visitation rights had already been granted to the respondent, which reads as under:-

“(a) The petitioner is allowed to take the custody of the minor child, Aiswarya on all second Saturdays, for the first four days during Onam and Christmas vacations and for the first four weeks during summer vacations. The petitioner shall take the child at 9 a.m from the house of the respondent and give back to the very same place before 5.00 p.m on these days.

-:2:-

(b) Petitioner/respondent are permitted to contact the child over phone every day while the child is in the custody of the petitioner/respondent and the petitioner/respondent shall make arrangements for the child to attend her father's/mother's phone calls. In case of dispute regarding the venue or for the implementation of the above directions, parties are at liberty to approach this court for appropriate direction."

3. Learned counsel for the petitioner submits that respondent never attempted to invoke visitation rights so far and suddenly he had come out with an application seeking for custody from 23/12/2016 from 31/12/2016. Petitioner apprehends that orders will be passed by the Family Court without hearing the petitioner. We do not think so. If the petitioner has objections to the respondent having custody of the child, it is always open for the petitioner to file appropriate objection, which shall be considered by the Family Court before passing orders.

With the above observation, original petition is closed.

A.M. SHAFFIQUE, JUDGE

ANU SIVARAMAN, JUDGE