

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

MONDAY, THE 31ST DAY OF JANUARY 2022 / 11TH MAGHA, 1943

OP (FC) NO. 638 OF 2021

AGAINST THE ORDER IN OP 1977/2021 OF FAMILY COURT, ERNAKULAM

PETITIONER:

LIYA SEBASTIAN, AGED 30 YEARS, D/O.A.J.SEBASTIAN,
ANTHIKKATTU HOUSE, KALAMASSERY (P.O.), TOG PASS ROAD,
THRIKKAKARA NORTH VILLAGE, ERNAKULAM DISTRICT.

BY ADVS.
K.V.BHADRA KUMARI
BYJA E.G.
RANJITHA R. NAIR

RESPONDENT:

VIPIN JOSE V., AGED 38 YEARS, S/O.V.D.JOSEPH, VADASSERY
HOUSE, UDYOGAMANGAL P.O., ELOOR VILLAGE, ERNAKULAM
DISTRICT, PIN - 683 501.

BY ADV C.P.PEETHAMBARAN

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON
31.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

A. Muhamed Mustaque, J

This original petition was filed seeking expeditious disposal of O.P Nos.1977 of 2021 and 2161 of 2021 on the file of the Family Court, Ernakulam. The petitioner filed O.P No.1977 of 2021 to appoint her as legal guardian of the minor children namely, Chrisbel Vipin and Chrizel Vipin. The respondent father also filed O.P No.2161 of 2021 before the same Court for getting permanent custody of the minor children.

2. The petitioner-mother has obtained a VISA to work and reside in Canada. The petitioner wants to take the children to Canada.

3. When this matter came before us, we explored the possibility of settlement between the parties. We persuaded the parties to arrive at a settlement amicably to protect the best interestes of the children. The father readily accepted the

proposal and was magnanimous enough to put an end to the litigation by entering into a settlement with the mother. The father has agreed for taking the children by the mother to Canada. The parties have drawn a compromise petition and filed the same along with I.A No.1 of 2022. The above compromise petition is received on record.

4. In terms of the compromise, the petitioner-mother is appointed as custodian and legal guardian of the minor children and she is allowed to take the children to Canada. The appointment of the petitioner-mother as legal guardian and custody given to her will be subject to the terms and conditions as agreed in the compromise petition. The compromise petition will form part of the judgment. Accordingly, we declare that the petitioner-mother is the custodian and legal guardian of the minor children namely, Chrisbel Vipin and Chrizel Vipin.

In the light of above compromise, we direct the Family

Court, Ernakulam to close the proceedings recording the settlement arrived at between the parties before this Court. Once again we appreciate the respondent father and his counsel for making all the earnest efforts to settle the disputes amicably.

The original petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

Sd/-

SOPHY THOMAS

JUDGE

APPENDIX OF OP (FC) 638/2021

PETITIONER EXHIBITS

- | | |
|------------|--|
| Exhibit P1 | TRUE COPY OF THE COMMUNICATION ISSUED FROM THE CONESTOGA COLLEGE, INTERNATIONAL EDUCATION OFFICE TO THE PETITIONER DATED 28/10/2021. |
| Exhibit P2 | TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE FAMILY COURT, ERNAKULAM, O.P.NO.1977/2021. |
| Exhibit P3 | TRUE COPY OF THE PETITION FILED BY THE RESPONDENT, O.P.NO.2161/2021 BEFORE THE FAMILY COURT, ERNAKULAM. |
| Exhibit P4 | TRUE COPY OF THE ADVANCE PETITION AND TODAY MOVING PETITION FILED BY THE PETITION AS I.A.NO.5861/2021 IN O.P.NO.1977/2021. |

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27-1-22

Upret

17.01.22

Presented On: 27-1-2022

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

I.A. No: 1 /2022
In

O.P. (F.C) No: 638 /2021

Liya Sebastian : Petitioner/Petitioner
Vs.
Vipin Jose V. : Respondent/Respondent

COMPROMISE PETITION FILED UNDER O.23 RULE 3 OF C.P.C BY
BOTH THE PARTIES IN THE ABOVE CASE

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27/1/22

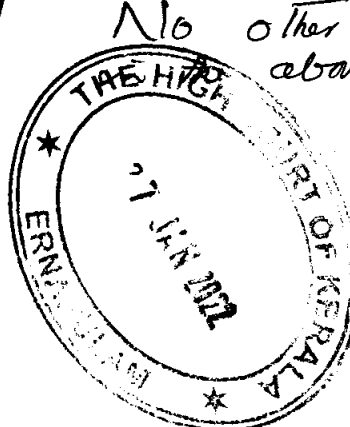
K.V. BHADRA KUMARI (K/479/90) (B-155)

COUNSEL FOR THE PETITIONER

2-11-2022

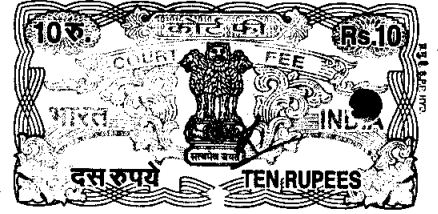
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Adv. C.P. Bhadra Kumari
27/1/22

(17)



No other appearance
above case

27/1/2022



BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

I.A. No: /2022
In

CF 2.10/-
27/11/22

O.P. (F.C) No: 638 /2021

Liya Sebastian : Petitioner/Petitioner

Vs.

Vipin Jose V. : Respondent/Respondent

COMPROMISE PETITION FILED UNDER O.23 RULE 3 OF C.P.C BY
BOTH THE PARTIES IN THE ABOVE CASE

The above O.P.(F.C.) is filed seeking speedy disposal of O.P. No:1977/2021 and O.P.No:2161/2021 pending before the Family Court, Ernakulam. O.P. No:1977/2021 is filed by the petitioner to pass an order declaring that the petitioner is the legal guardian and custodian of the minor twin daughters 'Chrisbel Vipin' & 'Chrizer Vipin' aged 5 years old as the petitioner wanted to take them to Canada. The respondent filed O.P. No:2161/2021 seeking permanent custody of the minor children to him. This Hon'ble Court has interacted with both parties and both parties have arrived at a settlement. Both the petitioner and the respondent have agreed and decided to settle the disputes amicably as per the terms and conditions mentioned below:-

1. The respondent - father has given consent for taking the twin daughters 'Chrisbel Vipin' & 'Chrizer Vipin' to Canada with the petitioner and to declare the petitioner as legal guardian and custodian of minor twin

VIPIN JOSE-V.

Vipin

LIYA SEBASTIAN

Liya Sebastian

daughters 'Chrisbel Vipin' & 'Chrizel Vipin' so as to take them to Canada with the petitioner.

2. The petitioner has agreed that she will provide necessary arrangement for the respondent to contact the children through video calling on every day when the children will be in Canada.

3. The petitioner has agreed to give custody of the minor children to the respondent when she will come on leave for once in every year. If the petitioner will not able to come on leave once in every year due to unforeseen events, like spread of Covid 19 etc, she will come during immediate possible time and will give the custody of the children to the respondent.

4. The petitioner has agreed that she will ensure the safety of the children in Canada.

5. The respondent has agreed that if necessary, he shall put his signature in documents to be submitted before the concerned authorities.

6. The petitioner has agreed to obtain a mirror order from Canada in respect of the settlement already entered between the petitioner and the respondent.

7. The petitioner has agreed that she will meet the entire expenses of the minor children single handedly and she relinquishes her right of getting maintenance to the children at the rate of Rs.5000/- each from the respondent as per the earlier agreement.

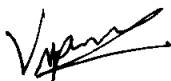
VIPIN JOSE V.

Vipin

LIYA SEBASTIAN

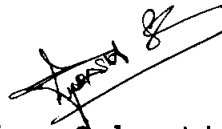
Hence, in the interest of justice, it is most respectfully prayed that this Hon'ble Court may be pleased to pass judgment in view of the compromise petition filed by the parties.

Dated this the 27th day of January, 2022.



Vipin Jose V.

Respondent



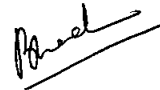
Liya Sebastian

Petitioner



C.P. Peethambaran

Counsel for the Respondent



K.V. Bhadra Kumari

Counsel for the Petitioner