

**SUPREME COURT OF INDIA**

Rubina Bano

Vs.

Wazid Ali

S.L.P(C) No. 630 of 2008

(D.K. Jain and R.M. Lodha JJ.)

28.04.2009

**ORDER**

This petition by the mother of minor child Ayyan Ali is directed against order dated 22nd November, 2007 passed by the High Court of Judicature for Rajasthan at Jaipur, whereby the order passed by the District and Sessions Judge, Jhunjhunu dismissing an application filed by the father of the child under Section 10 of the Gurdians & Wards Act, 1890 has been set aside. Since the matter pertained to the custody of the said minor child, we had requested counsel for the parties to try to settle the dispute between the parties amicably. At present the child is in the custody of his maternal grandmother and is residing at Bombay. We are happy to note that with the cooperation and assistance of learned counsel for the parties, an amicable settlement in regard to the custody of the child has been arrived at. They have agreed that :

1) Wazid Ali-the father of Master Ayyan Ali would be his permanent guardian and for all intents and purposes, the child would be under his custody;

2) Master Ayyan Ali shall be admitted to Hansraj Moraji Public School, Andheri, Mumbai by the

father Wazid Ali. If for any reason, the school does not admit the child, he will be admitted in Prudence School, Panvel, Mumbai;

3) All personal expenses of the child, including on education, clothing, medical etc. shall be borne by the father-Wazid Ali. But for some exceptional reason, the child will be permitted to complete his education upto class 12 in the same school;

4) Smt. Husna Bano w/o Iqbal Qureshi, the maternal grandmother of the child would be his local guardian at Mumbai;

5) Apart from Wazid Ali and Smt. Husna Bano, the school administration may permit any other relative of the child to meet him if their rules and regulations so permit;

6) As regards the custody of the child during long vacation in the school, in this year after his admission during first summer vacation, the child will continue to remain in the custody of Smt. Husna Bano but during the first Diwali vacation the child will stay with his father and during the first Christmas vacation, Smt. Husna Bano shall be entitled to his custody. However, from the next year onwards only during Diwali vacation, the child will be in the custody of his maternal grandmother and shall remain in the custody of the father during the summer vacation as well as during the Christmas vacation;

7) The father will also be entitled to have the custody of the child over the week-ends for a minimum period of four hours subject to the convenience of the child and after due prior intimation to his maternal grandmother;

8) The said arrangement shall continue till the child completes his education in the school;

9) All pending cases between the parties, viz, Civil Misc. Case No. 203 of 2006 pending before District Judge, Jhunjhunu, Petition No. E/199/2007 pending before Principal Judge, Family Court Bandara, Mumbai, M.J. Petition No. D/35/2007 pending before Principal Judge, Family Court, Bandara, Criminal Writ Petition No. 2437 of 2008 and C.R. No. 562 of 2008 pending before the Bombay High Court shall be deemed to have been disposed of. We expect and hope that keeping in view the welfare of the child, the parties shall abide by the terms of the agreement set out above. The special leave petition stands disposed of. T.P(C) NO. 230 of 2008 In view of the order passed in the special leave petition, the transfer petition shall be treated as disposed of.

