

SUPREME COURT OF INDIA

Damayanti Hemant Matani

Vs.

Dr. Viren Bhagwandas Asher & Anr.

C.A.No.8175 of 2016

(Kurian Joseph and R.F.Nariman,JJ.,)

17.08.2016

JUDGMENT

Kurian Joseph,J.,

SLP (Civil)No.23006 of 2016

1. Leave granted.

2. The essential issue pertains to the treatment/surgery of the minor child 'Darsh' . The High Court has permitted the Respondent No.1-father to take the child from India to Nottingham, U.K. for a surgical procedure required for the child. The period of four months from August, 2016 to end of November, 2016 is the academic schedule, we are of the view and for which the respondent-father, who is present before us, has no objection that it will be more appropriate and in the better interest of the child to have a schedule for a period between first week of October, 2016 and 31st January, 2017. Therefore, the impugned judgment of the High Court will stand modified to the extent for the period from first week of October, 2016 to 31st January, 2017.

3. Additionally, we direct the respondent No.1 and his mother Dr. Niranjana Asher to file a separate affidavit before this Court, before the child is taken to the effect that on completion of the treatment, the child will be brought back to India and put in the custody of the appellant.

4. In case, any of the parties need any modification in The order, they will have to seek direction from this Court.

5. In view of the order as above, we direct the appellant To hand over the custody of the child to the respondent No.1-father on 1st October, 2016.

6. The respondent-father submits that he has no objection if the grandmother of the child stays with the child when the child is under treatment in U.K.

7. The appeal is disposed of in the aforesaid terms.