

In the High Court for the State of Telangana

Civil Revision Petition No. 881 of 2022

Between:

Yeluguri Andalu

... Petitioner

and

Maragoni Sandeep Goud

...Respondent

Date of Judgment Pronounced: 11-01-2023

**Submitted for Approval:**

Hon'ble Smt. Justice LALITHA KANNEGANTI

Whether Reporters of Local newspapers  
may be allowed to see the judgments ? No

Whether the copies of judgment may be  
marked to Law Reporters/Journals Yes

Whether Her Lordship wish to  
see the fair copy of the Judgment ? Yes

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**(LALITHA KANNEGANTI, J)**

\* Hon'ble Smt. Justice LALITHA KANNEGANTI

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% Dated 11.01.2023

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! Counsel for the petitioner : Sri K. Sitaram

^ Counsel for the respondent : Sri P. Vijay Kumar

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>HEAD NOTE:

? Cases cited:

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI****CIVIL REVISION PETITION No. 881 OF 2022****ORDER:**

The present Revision is filed aggrieved by the order dated 25.03.2022 in I.A.No. 291 of 2021 in G.W.O.P.No. 55 of 2021 on the file of the Family Court-cum-VI Additional District Judge, Nalgonda.

2. The O.P. was filed by the grandmother seeking custody of her granddaughter who is residing with her father. While the said Guardian O.P. is pending, an Application is filed under Section 12 of the Guardians and Wards Act (for short, 'the Act') for granting visitation rights to the grandmother to visit the child once in a week i.e. on Sunday from 09.00 a.m. to 09.00 p.m. The said Application was dismissed *vide* order impugned observing that *'the Court heard the minor child in view of Section 17(2) and (3) of the Act. The minor child stated to the Court that her grandparents are saying bad about her father, that she has no willingness to live with the grandparents and that she has no objection for ordering visiting rights at the house of her father. The grandmother did not clearly mention in the affidavit as to where the minor granddaughter is studying and where it is*

*practicable to meet her maternal granddaughter. Taking into consideration the entire facts and circumstances of the case and all contentions of both sides the Court is of the considered opinion that visiting rights cannot be granted as prayed for.'* Assailing the same, the present Revision is filed.

3. Sri K. Sitaram, learned counsel for the grandmother, who is the petitioner in O.P. submits that petitioner is mother-in-law of the respondent and marriage of the respondent and the petitioner's daughter was solemnised on 05.05.2011 as per the customs and traditions. It is submitted that before the marriage, the respondent informed her that he completed B.Tech., MBA in London and has been working as a private employee in IBM, Bengaluru and getting handsome amount of salary and further informed that he is the only son of his parents and having more movable and immovable properties. Believing the same, by giving dowry and other articles, the petitioner performed the marriage of her daughter, after sometime, the respondent started harassing the daughter physically and mentally. Several times, they tried to pacify the same. Learned counsel submits that in the month of November, 2012, the petitioner came to know that her daughter conceived, even thereafter, the respondent did not take care of her and

neglected her and being a mother, she took care of her health till her delivery on 17.06.2013 and her daughter was blessed with a female child who is named as Shreshta and is now aged about eight years. It is submitted that not able to bear the harassment, at her in-laws house at Nalgonda Town, on 27.09.2013, the petitioner's daughter attempted to commit suicide by taking Lyzol, thereafter, she was shifted to Suraksha Hospital, Nalgonda and after the treatment, she was discharged from the hospital. When she went to the in-laws house of her daughter, the petitioner has observed the worst situation of her daughter and the petitioner questioned the respondent and his family members with regard to the harassment and all of them agreed their mistakes and promised that they will not harass the daughter of the petitioner in future. The respondent also blamed the petitioner stating that her daughter is having health problems and he never led happy married life with her daughter. The daughter passed away on 15.03.2020 and the father of the respondent executed an agreement on Rs.100/- non-judicial stamp paper in the presence of the witnesses in favour of his minor granddaughter agreeing to transfer agriculture lands and house plots in her favour. Thereafter, on 23.03.2020, he died due to his health problems. After his demise, the respondent

totally changed his attitude, he developed grudge against the petitioner and her husband and he threatened them with dire consequences and he is not allowing to meet their granddaughter. It is submitted that the deceased was the only daughter and they have utmost love and affection towards her minor granddaughter and the respondent is intentionally keeping her away from them and he has been fostering his daughter against the petitioner by injecting aversion. The petitioner is suffering a lot assuming that the respondent may not give any space to the petitioner to meet her granddaughter in her life time. It is submitted that along with the deceased daughter, the petitioner has a son who is married and the daughter-in-law is a doctor in USA and both of them are settled abroad. Learned counsel submits that the petitioner is having financial capacity to look after the welfare and education of the minor granddaughter and she has filed an Application seeking her interim custody.

Learned counsel submits that the Court below while passing the order has even failed to consider the affection and attachment of a grandmother towards her granddaughter, particularly when she lost her daughter. It is submitted that the girl has never stated that she is not interested to meet the

grandparents at her house and without considering that and without assigning proper reasons, the Court below dismissed the Application on the frivolous ground of petitioner not mentioning the place where the grand daughter is studying and not mentioning any place where she wants to meet, that alone cannot be a reason for the learned Judge to dismiss the Application. He submits that where the human relations and human feelings are involved, the Judge ought not to have refused the request for visitation rights which is a legitimate expectation and right of the grandmother.

4. Learned counsel for the respondent Sri P. Vijay Kumar submits that the girl was examined by the Court below and she is not showing any interest to meet the grandmother. He submits that as she likes her father and grandparents are talking bad about her father, she is not willing to meet her grandparents. He further submits that the Court below taking all these into consideration particularly the child's unwillingness, has passed the order impugned.

5. When the Revision came up on 19.07.2022, this Court passed the following order:

"Learned counsel for the petitioner submits that the daughter of the petitioner expired on 16.02.2020 and the

granddaughter of the petitioner is aged about eight years. The respondent, who is the father of the child, contracted second marriage. The petitioner filed G.W.O.P.No.55 of 2021 seeking custody of the child and pending the same, Interlocutory application is filed seeking interim custody of the child. He submits that the Court below, without considering the application in its proper perspective, has dismissed the interlocutory application on 25.03.2022 observing that *"This court heard the minor child in view of Section 17(2) and (3) of the Act. The minor child stated to the court that her grandparents are saying bad about her father, that she has no willingness to live with the grandparents and that she has no objection for ordering visiting rights at the house of her father. The petitioner did not clearly mention in the affidavit as to where the minor granddaughter is studying and where it is practicable to meet her maternal granddaughter. Taking into consideration the entire facts and circumstances of the case and all contentions of both sides the court is of the considered opinion that visiting rights cannot be granted as prayed for"*. He further submits that being the grandmother of the child, she is entitled for visitation rights and the child said that she has no objection for meeting at the house of her father. Learned counsel for the petitioner submits



that in the order dated 25.03.2022, the learned Judge except stating that the child was examined and she is not willing to live with the grandparents, no other reasons are assigned for refusal of visitation rights.

Learned counsel for the respondent submits that the Court below taking into consideration all the relevant aspects has refused the permission. He submits that even the petitioner has not stated when and where she wants to meet the child.

In the order, it is mentioned that child is willing to meet the petitioner. Petitioner being the grandparent has every right to meet the grandchild pending custody petition. As an interim measure, this court deems it appropriate to permit the petitioner to visit the child at her school i.e., Birla Open Minded International School, Kollapur, on 24.07.2022 and 31.07.2022 between 10.00 a.m. and 12.00 Noon.”

6. On 19.10.2022, when the matter came up, it is submitted that the grandparents could not meet the child. Then this Court has directed the petitioner -respondent to be present along with the child on 26.10.2022. On 26.10.2022, this Court has passed the following order:

“This Civil Revision Petition is filed questioning the order dated 25.03.2022 in I.A.No. 291 of 2021 in G.W.O.P.No. 55 of 2021. I.A.No. 291 of 2021 is filed by the grand-mother seeking visitation rights of the grand daughter. The said Petition was dismissed observing that ‘the Court heard the minor child in view of Section 17(2) and (3) of the Act and the minor child stated to the Court that her grandparents are saying bad about her father, that she has no willingness to live with the grandparents and that she has no objection for ordering visiting rights at the house of her father. The petitioner did not clearly mention in the affidavit as to where it is practicable to meet her maternal granddaughter. Taking into consideration the entire facts and circumstances of the case and all contentions of both sides the Court is of the considered opinion that visiting rights cannot be granted as prayed for and accordingly, the Court dismissed the said I.A.’ Assailing the said order, the present Revision is filed.

This Court by order dated 19.07.2022, observed that the petitioner being the grandparent has every right to meet the grandchild pending custody petition and as an interim measure, this Court deems it appropriate to permit the petitioner to visit the child at her school ie Birla Open Minded International

School, Kollapur on 24.07.2022 and 31.07.2022 between 10.00 a.m. and 12.00 Noon.

When this matter came up before this Court, on 19.10.2022, it is stated that the girl is reluctant to meet her grandparents at the school and if it is at home, they have no problem. Then this Court has directed that the child shall be present before this Court on 26.10.2022.

Today, this Court has interacted with the child in the chamber and during the conversation, it is stated that as the grandparents are talking bad about her father she is not interested and thereafter, the child started crying saying that whenever she goes to her grand mother, she remembers her mother and that is the reason she is avoiding to meet her. This Court is of the view that the girl in the process of keeping herself away from the memories of her late mother, is avoiding to meet the grandmother. When the girl lost her mother and deprived of her mother's love and affection, all the more reason that she should have the interaction and affection of her maternal grandparents. The grandmother also appeared before the Court in the chambers and submitted that they lost their daughter and as her son-in-law has already married another woman, at this point of time, they only want to meet the girl

once in a week and she also stated that except meeting their grand-daughter, they will not say anything against her son-in-law.

This Court exercising *parens patriae* jurisdiction has to look at the ultimate wellbeing of the minor child in all aspects. In the considered opinion of this Court, the grand-daughter is entitled to and should have the love and affection of the maternal grandparents. Hence, the petitioner is permitted to meet her grand daughter in 'Magna Majestic Meadows' a club house, Osman Nagar, Tellapur on 30.10.2022 between 10.00 a.m. and 12.00 Noon.

List this matter on 02.11.2022. Basing on the feedback from the girl, subsequent orders will be passed.

The girl and the maternal grand- parents alone shall spend two hours time.”

7. Thereafter, when the Revision came up on 04.11.2022, this Court has interacted with the girl, grandparents as well as father in the chambers. The grandparents consistently on two occasions, have specifically stated that if the father is not interested to give custody of the child, they will confine their request to visitation rights. They have stated that the respondent can specify his convenient time

and place, they will go and meet the grand-daughter and they will not even utter a word against her father. What they want at this age is the opportunity to spend some good time with the grand-daughter and also want to see their daughter in her.

8. When this Court has interacted with the child, initially, she stated the same-thing as what she has stated before the Court below that the grand-parents are talking bad about her father and she is not interested to meet them. On further queries from the Court, she suddenly started crying stating that after her mother's death, whenever she visits or meet her grand-mother, she is immediately reminded of her mother and she cannot control her tears and it takes lot of time for her to come to normalcy. Then the Court tried to console her saying that she lost her mother and she has every right and need to have the love and affection of her grand-mother, further, she should always remember her mother with a positive note and a good feeling, she should not try to get rid of her mother's memories and in that process, she should not refuse to meet her grand-mother. She agreed that she will meet her in the club house of her villas / apartment. Then finally, the Court interacted with the father. He said that his wife had some health issues which were suppressed by his mother-in-law and got her

married. He submits that he has taken care of his wife very well. In spite of it, his in-laws have lodged cases against him. Even his daughter is also aware of those cases. In view of the conduct of the grand-parents, girl is not interested to meet them. This Court has tried to make the father understand that for the psychological and overall growth and development of the girl, she needs to have the affection of the grandparents. He replied stating that if she talks to the grand-mother, they may say something against him and he will lose his daughter as such he is not interested. But still the Court insisted that the grand-mother is entitled for visitation rights, girl as well as the father has specifically requested the Court that they can come to the club house. Thereafter, as per the Court order, the grand-mother went to Magna Majestic Meadows, club house, Oman Nagar, Tellapur on 30.10.2022 between 10.00 a.m. and 12.00 Noon. The granddaughter and her father came to the place with security. Neither the girl has come to the grandmother nor she was permitted to meet her. When this Court has interacted with the girl, she has come up with the same excuse as was stated on the first occasion that they will talk about her father. From the entire conversation this Court had with the girl, it appears that she is completely tutored by

the father and was made to develop hard feelings against the grand-mother. The father is trying to tutor her in such a way that she is not showing any interest to meet the grand-parents. A small girl of eight years knows every minute thing about the cases and several issues. Admittedly, she is staying with the father, paternal grand-mother and step mother. All these issues she can only know if the father and other family members tell her and discuss with her. The moment the girl saw her grandmother in the chambers, she started crying and the Court could see the emotions of the girl. This Court is of the considered opinion that the father with the ego issues towards his mother-in-law i.e. petitioner is meddling with the child's upbringing which will have long-lasting consequences on child's physical and psychological aspects. The Court can clearly see that the girl is very much emotional on these issues and it appears that father is trying to emotionally blackmail her.

9. This Court while exercising the *parens patriae* jurisdiction has to look at the welfare of the child and at all times, the welfare of the child should be the paramount consideration for the Court. Court cannot look at the disputes of the mother-in-law and the son-in-law. Their *inter se* disputes should not have the effect on the mental growth of the child and

with this kind of hatred towards grandparents, if the upbringing takes place, the child will definitely not evolve into a good human being and this will have life time negative effect. From the grandparent point of view also, she lost her only daughter and they want to have the love and affection of the minor daughter which they are entitled to and the father without any ground, cannot deny and deprive them of their right. The kind of love and affection, sense of security and warmth a grand-child derive from the presence of the grand-parents is undoubtedly significant. If anybody is asked about the memories of childhood, immediately what comes to the mind is about the grandma tales. The interaction of grandchild with the grand-parents is good in the interest of both parties so that the grand-parents can express love and affection to the grand-daughter and develop the bond with the child and it would be conducive for the overall well being of the child. While dealing with any of the issues pertaining to the child, the paramount consideration of the Court is the welfare of the child. The wellbeing of the child has to be looked into from several perspectives. If the father is able to take care of the child that alone cannot be the consideration. A child will evolve into a complete person basing on his / her experience, the way she was taken care of by near



and dear in life. Every child is entitled for a happy childhood. Unfortunately, in this case, the child lost her mother, father is already married and no doubt, he is taking care of her but at the same time, she needs to enjoy the pampering, love and affection of the grand-parents.

10. In *McGrath (infants), Re (1893) 1 Ch 143: 62 LJ Ch 208 (CA)*, it was observed that, "... The dominant matter for the consideration of the court is the welfare of the child. But the welfare of a child is not to be measured by money only, or by physical comfort only. The word welfare must be taken in its widest sense. The moral or religious welfare of the child must be considered as well as its physical well-being. Nor can the ties of affection be disregarded."

11. In *Walker v. Walker & Harrison, 1981 New Zed Recent Law 257*, the New Zealand Court (cited by British Law Commission, Working Paper No. 96) stated that "welfare is an all-encompassing word. It includes material welfare; both in the sense of adequacy of resources to provide a pleasant home and a comfortable standard of living and in the sense of an adequacy of care to ensure that good health and due personal pride are maintained. However, while material considerations have their place they are secondary matters.

More important are the stability and the security, the loving and understanding care and guidance, the warm and compassionate relationships that are essential for the full development of the child's own character, personality and talents."

12. Grand-parents play an impressive role in a child's life which compliments with the role of the parents. In the considered opinion of this Court, the girl cannot be deprived of meeting her grandparents at the behest and tutoring of the father who does not like the grand-mother.

13. Accordingly, the order dated 25.03.2022 in I.A.No. 291 of 2021 in G.W.O.P.No. 55 of 2021 is set aside and the grand-mother can visit the child on every Saturday between 10.00 a.m. and 12.00 Noon at Magna Majestic Meadows Club House i.e. respondents' place pending Guardian O.P. Whenever there is any difficulty in adhering to the schedule fixed by this Court, it should be informed to the Court below and the Court can grant some other day, but once in a week the petitioner / grandparents shall be permitted to meet the girl.

14. The Civil Revision Petition is accordingly, allowed.  
No order as to costs.

15. The miscellaneous Applications, if any shall stand closed.

11<sup>th</sup> January 2023

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**LALITHA KANNEGANTI, J**

