

**(2010) 05 KL CK 0079**

**High Court Of Kerala**

**Case No:** Writ Petition (Criminal) No. 180 of 2010 (S)

Vijayakumari

APPELLANT

Vs

Shylaja and Others

RESPONDENT

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Date of Decision: May 26, 2010

Hon'ble Judges: R. Basant, J; M.C. Hari Rani, J

Bench: Division Bench

Advocate: J. Jayakumar, for the Appellant; M.R. Rajesh, for the Respondent

Final Decision: Allowed

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### **Judgement**

1. The controversy in these Writ Petitions is about the custody of a child. The child is aged one year only. Vijayalakshmi, the respondent in W.P(C) No. 14531 of 2010 and the petitioner in W.P(Crl) No. 180 of 2010, is the mother of the child. Shylaja, the petitioner in W.P(C) No. 14531 of 2010 and the 1st respondent in W.P(Crl) No. 180 of 2010, is the sister in law, ie. the sister of the father of the child. The 4th respondent in W.P(Crl.) No. 180 of 2010 is the father of the child. The father of the child is employed abroad. The child is now in the custody of Shylaja, paternal aunt of the child. O.P Nos. 359 of 2010 and 1328 of 2009 are pending before the Family Court, Nedumangad in respect of the custody of the child. Various interim orders have been passed. There have been applications for review of the orders and review of the reviewed orders.

2. We have heard both sides. We are satisfied that these Writ Petitions can now be disposed of by issuing specific directions regarding the custody of the child. Accordingly these Writ Petitions are allowed and the following directions are issued, which shall remain in force in supersession of all the earlier directions on the subject.

i) Shylaja, the paternal aunt of the child shall produce the child before the Family Court at 10 a.m on 07.06.2010. On all Mondays and Fridays until further orders, the child shall be handed over to its mother at 10 a.m and shall be returned by the

mother to the paternal aunt at 5 p.m. This shall be done under the direct supervision of the Family Court, which shall ensure that these directions are carried out.

ii) The child shall not be taken out of the premises of the Family Court;

iii) Whenever the mother of the child goes to the court for getting custody of the child in execution of the above directions, her mother Leenabhai shall also be present along with the mother of the child;

iv) The learned Judge of the Family Court shall dispose of O.P Nos. 359 of 2010 and 1328 of 2009 jointly as expeditiously as possible - at any rate, within a period of 4 months from 07.06.2010;

v) It is reported that the father of the child is not available in India. Personal presence of the father of the child need be insisted by the Family Court only if it is absolutely essential for making further progress in the trial of the cases;

vi) It is made clear that the Family Court shall consider all contentions raised by the parties in the O.Ps in accordance with law.