



ALLIANCE
UNIVERSITY

*Private University established in Karnataka State by Act No.34 of year 2010
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Alliance School of Law

**THE ALLIANCE NATIONAL MOOT COURT
COMPETITION, 2016**

MOOT PROBLEM

Saritha Paramshetti Vs Raman Sundar & Anr.

1. Raman Sundar, a Hindu, hails from Bengaluru. He is a scientist by profession. After completing his Ph.D. from India, he went to Texas in the United States of America. He joined as a research fellow in a prestigious university in Texas. Owing to his academic brilliance, he soon rose through the ranks in the University and this helped him secure a US citizenship.
2. Saritha Paramshetti is a Hindu born in Mysuru, India hailing from a traditional conservative family and is the only issue of well-off parents and is a software engineer by profession.
3. Raman and Saritha got married on 12th June 1999 with the blessings of their parents and spent the next three months in India. Soon after, they left for USA. She subsequently acquired the citizenship of USA.
4. Out of this marriage they had two children, one son and one daughter, Nirmal and Meghana. Nirmal was born in 2001 and Meghana in 2005. Both were born in USA.
5. By June 2010 the marital relationship between Raman and Saritha started deteriorating. The children, who were schooling in Texas, could feel the alienation of their father. Though Raman did not disclose any particular reason for discord, he started drinking and in his inebriated condition would ill-treat Saritha. He would frequently abuse her verbally and often also verbally abuse her parents. She suffered it silently for the sake of saving the marriage.
6. In October 2014 Raman, Saritha and their two children came to Mysuru to celebrate Dussehra. Raman stayed in India for a week and left for USA because of work constraints. Saritha and the children stayed back in Mysuru at her parents' place.
7. During her stay, the parents found Saritha to be mostly dull and dejected and anxiously enquired as to her well-being. Saritha revealed her plight and expressed her fear that her relationship with Raman could not be continued for long as she and her children could not suffer any longer.

8. After much thought and consultation with the Parents, Saritha decided to stay back along with the children in Mysuru for some time and wait for the response of Raman and then decide the future course of action.
9. She mailed Raman saying that she and children prefer to stay back in Mysuru and they will return only if he assured them of good behavior and proper treatment of Saritha and the children. Raman, who was apparently taken by surprise at the turn of events, returned within a month to India and apologized to Saritha and requested them to return with him to USA.
10. Soon after returning, Raman went back to his usual behavior and consequently Saritha and children flew back to Mysuru in April, 2015. Subsequently, in June Saritha arranged for the admission of the children in a school in Mysuru. Their schooling was a priority for Saritha and in order to catch up with local language required for schooling she arranged tuitions for the children.
11. In due course, Saritha decided to put an end to her marital relationship with Raman. She consulted a local lawyer and filed a petition for divorce in the Family Court at Mysuru in August, 2015. The Court ordered for issue of notice to Raman.
12. During the same period, Raman sensing that legal action would be taken, consulted a lawyer in Texas and filed a petition for the custody of his children. He contended that the children are US Citizens and it would be his legal right to be their guardian during their minority and it would be in the interest of children to be educated in USA under his care and custody. He further pleaded that the withdrawal of matrimonial company by Saritha was without any justification and also filed a petition for restitution of conjugal rights in a US Court against Saritha.
13. Raman secured an order from the US Court for the custody of children and it was ordered to be served in India to Saritha. Saritha, who received the order of US court, did not obey it. In October 2015, Raman therefore moved the Karnataka High Court at Bengaluru for an appropriate Writ to be issued to police department to hand over custody of children to him in compliance with the order passed by the US Court. Saritha contested the said Writ Petition, and pleaded that the order of US Court was passed without giving her an opportunity to be heard and hence not binding on her.

She also contended that she is the rightful guardian of the children in India and hence guardianship of the children should not be handed over to her husband in USA. Simultaneously she moved the Family Court at Mysuru for an order to allow her to retain custody of the children. This was moved as an interim application in the divorce petition filed by her. Pursuantly, the Family Court issued emergency notice to Raman.

14. In view of the contention raised by husband in the Family Court to the effect that he has right to custody of children even under Indian law, Saritha was advised to challenge the very law as being opposed to Constitution of India. Hence she filed a Writ Petition challenging validity of Sec.19 [b] of Guardians and Wards Act, 1890 and Sec.6 [a] of Hindu Minority & Guardianship Act 1956. Raman contested the same.
15. The High Court of Karnataka heard both the parties and held on 4th December 2015, that the father is natural guardian of minors and the order of US court has to be enforced in India, because that court which had otherwise jurisdiction over citizens of USA could pass such order. As regards the claim of Saritha regarding custody of the children, the High Court held that the matter is still pending at the stage of her application in the Family Court. As to the Writ Petition challenging the provisions of the two afore-mentioned statutes recognizing father as guardian of children, the High Court held that they do not violate any provision of Constitution of India.
16. Saritha now approaches the Supreme Court of India, challenging the judgment passed by Karnataka High Court concerning the validity of the afore-mentioned enactments and also the scope of obedience in India to the order passed by the US Court, and further her right as guardian of the children was re-agitated on her behalf in the Supreme Court of India. Raman contested that the Karnataka High Court order was valid. Pursuant to the notice sent in this regard, the Union of India also defended the constitutionality of the impugned provisions.
17. Upon preliminary hearing, the Supreme Court framed the following issues:



- a. Whether the divorce petition and particularly the interim application for the custody of the children filed by Saritha in the Family Court at Mysuru are maintainable?
- b. Whether the order of the US Court is enforceable in India?
- c. Whether Sec.19 [b] of the Guardians and Wards Act, 1890 and Sec.6 [a] of the Hindu Minority and Guardianship Act 1956 are constitutionally valid?

Note: Participants are free to frame additional issues on their own, which they can support on the basis of the above facts and legal principles.