

ITEM NO.10

COURT NO.4

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s).1722/2024

(Arising out of impugned final judgment and order dated 05-01-2024 in SCRLA No.12059/2023 passed by the High Court of Gujarat at Ahmedabad)

ROHAN RAJESH KOTHARI

Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

(FOR ADMISSION)

Date : 05-08-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Amar Dave, Sr. Adv.
Mr. P. S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Ms. Anne Mathew, Adv.
Mr. Bharat Sood, Adv.
Ms. Miranda Solaman, Adv.
Ms. Nivedita Sudheer, Adv.

For Respondent(s) Ms. Deepanwita Priyanka, Adv.
Ms. Swati Ghildiyal, AOR
Ms. Devyani Bhatt, Adv.
Mr. Rishi Yadav, Adv.

Ms. Anushree Prashit Kapadia, AOR
Mr. Chandratney, Adv.
Ms. Ekta Kundu, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Having heard learned Senior Counsel/counsel for the parties and after careful perusal of the material placed on record, we are satisfied that the petitioner has not approached the US Courts or Indian Courts with clean hands. In any case, his effort to secure temporary custody of the children through a Writ of

Habeas Corpus, especially when both the children are girls and are living with their mother, can neither be entertained nor appreciated.

2. The Special Leave Petition is, accordingly, dismissed, however, with a direction that the interim arrangement made by this Court shall continue to operate as an interim measure till the custody issue is resolved by the court of competent jurisdiction in India.

3. It is further clarified that no attempt shall be made or allowed by the Indian authorities or the Indian Courts (except this Court) to affect the status of the children or their mother, who are staying in India, in purported compliance to an order the petitioner is claimed to have obtained from the District Court, Fourth Judicial District, Family Court Division, State of Minnesota, U.S.A. in July, 2023. A foreign judgment violative of Indian law is not conclusive between the parties and thus, Indian Courts are not bound to follow it. This principle is also statutorily recognized by Section 13(f) of the Civil Procedure Code, 1908. Hence, the aforesaid order is not binding on the respondents or the children.

4. As a sequel to the above, pending interlocutory application, if any, stands disposed of.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(PREETHI T.C.)
ASSISTANT REGISTRAR