

INCOME, AGE, BIGGER FAMILY CANNOT BE SOLE CRITERIA IN CHILD-CUSTODY MATTERS

In the case of **Swaminathan Kunchu Acharya v. State of Gujarat** the Apex Court held that the income, age, cannot be the merely the criteria to handover the child- custody.

In this case Pranav Acharya 5 year boy lost his parents due to COVID thereafter minor boy started residing with her maternal aunt. Thereafter, boy's paternal grandfather approached the High Court by way of the present writ petition (habeas corpus) alleging that maternal aunt is not allowing them to enter into the house of his son and daughter in law and to take belongings of them. It was also alleged that the appellant is not even permitted to meet the boy. While disposing of the petition, the High Court gave the custody to the maternal aunt and aggrieved with the judgement, the grandfather approached the Supreme Court by the way of appeal.

Before the Apex Court, the Appellant (Grandfather) contended that solely he is aged 71 years and his wife is aged 63 years, the court shall not presumed that the paternal grandparents would not be in a position to take proper and better care of his grandson.

The Respondent contended that the maternal aunt would be in a better position to look after and take care of the boy than the Appellant (paternal grandfather).

The court agreeing with the submissions made by the Appellant (grandfather) and observe that there cannot be any assumption that merely the maternal aunt being unmarried having an independent income and younger than the paternal grandparents would take preferable care than the paternal grandparents. Whereby, In Indian society the paternal grandparents would always take better care of their grandson. One should not neglect the capacity and ability of the grandparents to take care of their grandson.

The Apex Court set aside the High Court order, the bench Justices MR Shah and Aniruddha Bose and held that Income or the age or the bigger family cannot be the solitary criteria to tilt the balance in custody matters.