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SJC-12541

MANAS RANJAN PANDA vs. MOUSHMITA PANDA.

October 15, 2018.

Supreme Judicial Court, Superintendence of inferior courts.
Practice, Civil, Moot case.

The petitioner, Manas Ranjan Panda, appeals from a judgment of a single justice of this court denying his petition pursuant to G. L. c. 211, § 3. We affirm.

The petitioner (father) and the respondent, Moushmita Panda (mother), were divorced in April, 2016. They have two minor children. In September, 2017, the father filed an amended complaint for modification. After a trial, a judge in the Probate and Family Court made certain modifications to the parties' separation agreement, but declined, among other things, to modify that part of the agreement that allowed for the mother's travel to India with the children for up to four weeks. On January 26, 2018, one day after the trial had concluded, and before the judge issued her decision on February 5, 2018, the father filed a motion to prohibit the mother from traveling to India with the children.¹ That motion was denied on March 19, 2018. The father filed a notice of appeal from both that ruling and the February 5 judgment to the extent that the latter concerned travel to India. The father also filed a motion to stay, in an effort to preclude the mother from traveling to India with the children, which the probate judge denied. The father then sought a stay from a single justice of the Appeals Court. The single justice denied the motion as well as the

¹ On that same date, January 26, 2018, the father also filed another complaint for modification, which remains pending in the Probate and Family Court.

father's subsequent motion for reconsideration. The father has appealed from the single justice's decision, and that appeal remains pending in the Appeals Court.

On the same date that the father's appeal was entered in the Appeals Court, he filed his G. L. c. 211, § 3, petition in the county court. In the petition, he sought relief from both the original April, 2016, divorce judgment as well as the February, 2018, modification, to the extent that they both allowed for travel to India. In particular, the father appeared to be seeking a stay to prevent a trip to India that the mother was scheduled to take with the children commencing on or about June 21, 2018. The single justice denied the petition without a hearing on June 8, 2018. On June 19, 2018, the father filed, in this court, a memorandum and appendix pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001). He also filed an "emergency motion to expedite," on the basis of the mother's imminent travel plans.²

To the extent that the father continues to seek a stay to prevent the mother's June, 2018, trip to India with the children, that issue is now moot, as it appears, as best we can tell from the record, that the trip has occurred and the mother has returned with the children. See Rasten v. Northeastern Univ., 432 Mass. 1003, 1003 (2000), cert. denied, 531 U.S. 1168 (2001). To the extent that he seeks to preclude any and all future travel, by seeking relief from the April, 2016, judgment, and the February, 2018, modification, his remedy does not lie with this court. He can obtain adequate appellate review in the regular course of a direct appeal from the rulings and judgments of the trial court. Relief under G. L. c. 211, § 3, is properly denied where, as here, "there are other routes by which the petitioning party may adequately seek relief." Sabree v. Commonwealth, 432 Mass. 1003, 1003-1004 (2000), and cases cited.

The single justice did not err or abuse his discretion in denying relief under G. L. c. 211, § 3.

Judgment affirmed.

The case was submitted on the papers filed, accompanied by a memorandum of law.

Manas Ranjan Panda, pro se.

² The emergency petition to expedite was denied.