

IN THE FIJI COURT OF APPEAL

Civil Jurisdiction

Civil Appeal No. 3 of 1984

Between:

SURYA KANT
s/o Jyanti Lal

Appellant

and

JYOTI BEN
d/o Popat Lal

Respondent

Mr. S.R. Shankar for the Appellant

Mr. Anil J. Singh for the Respondent

Date of Hearing: 26th March, 1984

Delivery of Judgment: 26th March, 1984

JUDGMENT OF THE COURT

Mishra, J.A. (Orally)

The appellant appeals against the decision of the Supreme Court, Suva, granting the custody of Sachin a child of the marriage to the respondent. In coming to that decision the Court took into account the evidence recorded by the Magistrate who heard the case and recommendations made by him. He also had the reports from Social Welfare Officers.

The appellant does not propose to have the child stay with him but will leave him with the child's grandparents with whom he has lived for some years and who are very fond of him. We, however, feel, as did the Supreme Court, that the child's best interests

will be served by allowing him to live with his mother and his younger sister. There is no allegation of unsuitability against the respondent who has had the custody of the younger child and has been a good mother to her.

This Court will disturb the exercise of its discretion by the lower court in a matter relating to the custody of a child only if it can be shown that it has acted on wrong principle or has failed to give proper weight to the evidence. We are not persuaded that the Supreme Court has, in this case, done either.

The appeal is, therefore, dismissed with costs to the respondent.

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Judge of Appeal

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Judge of Appeal

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Judge of Appeal