

Re S (Specific Issue Order: Religion: Circumcision)

[2005] 1 FLR 236

30/03/2004

Court

Family Division

Facts

During the marriage, by agreement between the Muslim mother and the Hindu father, the children had been brought up as Hindus, with Islamic influences. Neither parent was a strict adherent to his or her faith, although both had been raised in strict religious environments. The relationship between the mother and father had been concealed from the mother's family and religious community for 5 years before the couple married in a registry office and the mother's family was informed. The marriage was also celebrated at a low-key Hindu ceremony of blessing in the father's home. The mother's family concealed her marriage to a Hindu within their religious community and she was, therefore, able to continue with occasional attendance at the mosque. After the birth of the children, the mother asked the father to convert to Islam, which he was not prepared to do. Instead, with assistance from the mother's family, the father underwent a Muslim ceremony of marriage in which he held himself out, falsely, as a Muslim. After the separation of the mother and father, the mother applied to the court for permission for both children to become practising members of the Islamic faith, and for her son to be circumcised. The father opposed the application. Hinduism permitted continuing contact with Islam but forbade circumcision, while the Islamic faith forbade contact with Hinduism and required circumcision. The mother was now living with her family once again, and attending the mosque regularly with the children. She was concerned that if the children were not raised as Muslims, she, and possibly her entire family, would be expelled from the religious community. The father was concerned that if the children were raised as Muslims, he would lose all contact with them, and they would lose their freedom of choice.

Held

Held - rejecting the mother's application for a specific issue order -

(1) In this case the issue of the children's religion stemmed, in reality, not directly from the children's needs, but from the mother's need to portray herself as married to a Muslim, rather than a Hindu. The court should not sanction such a deception, particularly when the children knew the truth. The mother would be able to lead a wholly satisfactory life without the order, as the evidence showed that the mother's family would not reject her and there was no evidence that her religious group would do so (see para [83](d)(e)).

(2) The children were too old now to seek to favour one of their religions of origin over the other. Both the mother and father had a religious duty to bring the children up in their own religion, and during the

marriage there had been an agreement, put into practice, that they would have the best of both worlds. This was best for the children, but this situation could not continue if the children became fully practising Muslims. The children of a mixed heritage should be allowed to decide for themselves which, if any, religion they wished to follow (see para [83](f)-(j), (m)).

(3) Circumcision was not in the son's best interests at present, because it would limit his freedom of choice. The Muslim religion permitted circumcision later, at a time when the son would be old enough to make an informed decision (see para [83](k)).

Permission

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