

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.3 of 2015
and M.P.No.1 of 2015

1.Nisha
2.Vanaja

.. Petitioners

Vs

Nepoliyan

.. Respondent

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.No.908 of 2013 in Guardian O.P.No.4/2013 dated 05.07.2013 on the file of the Principal District Court, Villupuram.

For Petitioners : Mr.N.Suresh
For Respondent : Mr.V.S.Sivasundaram

ORDER

The Civil Revision Petition is filed against the order in I.A.No.908 of 2013 in Guardian O.P.No.4/2013 dated 05.07.2013 on the file of the Principal District Court, Villupuram.

2.Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3.Learned counsel appearing for the petitioners submitted that the respondent filed G.O.P.No.4 of 2013 along with I.A.No.908 of 2013 for injunction restraining the petitioners herein from shifting the child to Singapore, wherein without notice advance hearing application has been filed and the said I.A.No.908 of 2013 has been allowed. Hence, he prayed for setting aside the order passed by the Trial Court.

4.At this juncture, the learned counsel for the respondent submitted that since the petitioners are taking steps to shift the child from Kallakurichi where she is studying V Standard in the custody of the maternal grandmother, namely, the second petitioner herein, he was constrained to file G.O.P.No.4 of 2013 along with an application in I.A.No.908 of 2013 for injunction restraining the petitioners from shifting the child from Kallakurichi to Singapore where the first petitioner/wife is working in a Private Company. Hence, he prayed for dismissal of the revision petition.

5.Considered the rival submissions made by both sides and perused the typed set of papers.

6.On perusal of the records, it shows that interim order has not been

granted after the respondents/petitioners entered appearance and counter has been filed. But in the meantime, advance hearing application has been filed and order has been passed. In such circumstances, I am of the view that a fair opportunity must be given to both sides to put forth their case before passing the said order. Hence, the order passed by the Trial Court in I.A.No.908 of 2013 is hereby set aside and remitted back to the Trial Court. The Trial Court is directed to dispose of I.A.No.908 of 2013 on merits and in accordance with law after giving fair opportunity to both sides. Till such time, the revision petitioners/respondents I.A.No.908 of 2013 shall not shift the child from Kallakurichi to Singapore. The Trial Court is also directed to dispose of I.A.No.908 of 2013 within thirty days from the date of receipt of a copy of this order.

7.In the result, the Civil Revision Petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

09.12.2015

Index: Yes/No
Internet: Yes/No
cse

To

The Principal District Court, Villupuram.

R.MALA. J.,

cse

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