

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4231 of 2012

and M.P.Nos.1 of 2012, 1 of 2014 and 1 of 2015

S. Karthik

.... Petitioner

vs

A. Anbarasi @ Geetha

.... Respondent

Civil Revision Petition filed under Section 227 of the Constitution of India against the order of Principal Family Court, Chennai dated 8.10.2012 in I.A.No.2045 of 2012 in O.P.No.1528 of 2011.

For Petitioner : Mr.N.G.R. Prasad for
M/s Row and Reddy

For respondent : M/s Geetha Ramaseshan

ORDER

Challenging the fair and decreetal order passed in I.A.No.2045 of 2012 in O.P.No.1528 of 2011 on the file of Principal Family Court, Chennai, the petitioner, who is the husband of the respondent, has filed the above Civil Revision Petition.

2. The petition in F.C.O.P.No.1528 of 2011 was filed by the petitioner and respondent for divorce under Sec.13(B) of Hindu Marriage Act. The marriage between the petitioner and the respondent was dissolved by mutual consent on 20.11.2011 by the Principal Family Court, Chennai.

3. The petitioner filed an application in I.A.No.2045 of 2012 to revoke the order dated 20.11.2011 passed in O.P.No.1528 of 2011 relating to the guardianship and custody rights and to appoint the petitioner as guardian of the minor child viz., Akshath.

4. By Order dated 20.11.2011, the Family Court appointed the respondent as Guardian of the minor child and to have the permanent custody of the minor child Akshath and the petitioner shall have the visiting rights of the child on his birthday and have custody of the child in the evening from 5.00 p.m to 8.00 p.m if it is a working day and if it falls on a holiday then from 4.00 p.m to 8.00 p.m. Further, the Family Court permitted the petitioner to have the custody of the minor child for 50% of his school vacation viz., Summer Vacation, Pooja Holidays and December vacation and the petitioner shall be entitled to visit the child every alternate week end at Chennai.

5. In the application filed by the petitioner in I.A.No.2045 of 2012,

the petitioner sought to modify the order dated 20.11.2011, passed in F.C.O.P.No.1528 of 2011. The respondent filed her counter and opposed the petition. The family Court, taking into consideration the case of both the parties, passed the following order:

" 1. that this application be and the same is hereby partly allowed;

2. that the respondent – wife be and is hereby directed to hand over the custody of his minor son Akshath to the petitioner-husband on two Sundays in a month commencing from October 2012;

3. that the petitioner-husband be and is hereby entitled to have the custody of his minor son between 10.00 a.m to 4.00 p.m on those Sundays;

4. that the petitioner – husband be and the same is hereby directed to return the custody of the said minor son to his mother on the respective day at 4.00 p.m;

5. that the petitioner-husband to get the custody of the minor son be and the same is hereby directed to inform the respondent-wife either over phone or by letter or by SMS

through cell phone, well in advance so as to enable the respondent-wife to hand over the custody of the minor son to the petitioner-husband;

6. that after passing of some months from today and after attaining of good relationship between the petitioner and his son, the petitioner is entitled to approach the appropriate forum to have the custody of his son for a longer duration."

6. Heard both sides.

7. On a careful consideration of the materials available on record and the submissions made by the learned counsel on either side and also taking into consideration the welfare and the interest of the minor child, I am of the view that the respondent/mother shall have the permanent custody of the minor child *Akshath* and with regard to the visiting rights of the petitioner/father, I am of the view that the Order passed by the Family Court can be modified as follows:

(i) the respondent/mother shall have permanent custody of the minor child Akshath

(ii) the petitioner/father shall have the visiting rights of the minor child on his birthday

and have custody of the child in the evening from 5.00 p.m to 8.00 p.m if it is a working day and if the birth day falls on a holiday then from 4.00 p.m to 8.00 p.m.

(iii) the petitioner/father shall have the custody of the minor child for 50% of his school vacation viz., Summer Vacation, Pooja Holidays and December vacation. The petitioner/father shall have the custody of the minor child during the second half of the Vacation.

(iv) During festival days, the petitioner and the respondent can have the custody of the child alternatively for Deepavali and Pongal. For instance, if the child is with the respondent/mother for Pongal, then the petitioner/father shall have the custody of the child for the following Deepavali and so on.

(v) the respondent/mother shall hand over the custody of the child on the 2nd and 4th Sunday of every month to the petitioner/father at 10.00 a.m and the petitioner/father shall hand over the custody of the minor child to the respondent/mother at 4.00 p.m on the same day.

(vi) the parties shall permit the child to talk to

other party over phone. Permission to talk over phone shall not be withheld by either party to the other.

(vii) if the parties have any difficulty in the arrangements, they can amicably sort it out through the assistance of their Counsels or seek necessary directions from this Court.

(viii) the respondent/mother shall furnish a photocopy of the School Calendar published in the School Diary of the child once the School Diary being issued to the child every year.

8. In these circumstances, the order passed in I.A No.2045 of 2012 is modified with the above directions.

9. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected MPs are closed.

10-12-2015

sr

Index:no
website:yes

To

The Principal Family Court, Chennai

M. DURAISWAMY,J.,

sr

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