

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.3335 of 2014

and

M.P.No.1 of 2014

C.Ramesh

... Petitioner

vs.

Mrs.B.Elamathi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against fair and decretal order of the Subordinate Judge, Tambaram dated 04.07.2014 made in I.A.No.308 of 2013 in H.M.O.P.No.35 of 2011.

For Petitioner : Mr.J.Sudhakaran

For Respondent : Mr.R.Singaravelan,
for Mr.V.S.Jagadeesan

ORDER

The petitioner in H.M.O.P.No.35 of 2011 pending on the file of the Subordinate Judge, Tambaram (originally H.M.O.P.No.73/2010 on the file of Subordinate Judge, Tiruvallur), is the petitioner in the present revision. He filed the said H.M.O.P. for divorce on the ground of cruelty. Pending disposal of the H.M.O.P, the petitioner chose to file I.A.No.308 of

2013 for interim visitation right to the child of the parties, which is admittedly seven years old as on today.

2. The application was resisted on the ground that the petitioner herein did not care for the child from the date when the child was ten months old and at this length of time when the child itself would have forgotten even the face of the father, it would not be in the interest of the child to compel her to be with the petitioner.

3. The learned trial Judge, after hearing both sides, dismissed the said application by order dated 04.07.2014. It is as against the said order, the present civil revision petition has been filed.

4. Notice before admission was given and the respondent has entered appearance through counsel. The arguments advanced on both sides are heard. Records are perused.

5. Learned counsel for the petitioner, after making his submissions to some extent in support of the grounds alleged in the revision challenging the impugned order, faced with stiff resistance made on the other side, has chosen to submit that the question of custody of child or grant of any visitation right, shall be left open to be decided in the main H.M.O.P. itself and the petitioner will be satisfied if a direction is issued to the trial court to dispose of the H.M.O.P. expeditiously.

Learned counsel for the respondent is agreeable for the same.

In view of the above said submissions, the civil revision petition is dismissed. The question of custody of the child or the visitation right, shall be decided by the trial court in the H.M.O.P. itself, without being influenced by any of the observations made in the impugned order. The learned trial Judge is also directed to expedite the trial and dispose of the H.M.O.P. as expeditiously as possible, in any event not later than six months from the date of receipt of a copy of this order. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

23.03.2016

Index : Yes/No
Internet : Yes
asr

To

The Subordinate Judge, Tambaram

Note:

Issue order copy on
24.03.2016

P.R.SHIVAKUMAR, J.

asr/-

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