

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.1840 of 2015

1.Yasmin Banu

2.Mumtaj

: Petitioners

versus

K.M.Mohamed Hussain

: Respondent

PRAYER: Revision filed against the order dated 10.3.2015, in I.A.No.2 of 2014 in G.W.O.P.No.7 of 2014(FC) on the file of Family Court, Udagamandalam.

For petitioners :: Mr.J.Franklin

For respondent :: Mr.D.Muthukumar

ORDER

The respondent filed an interlocutory petition in I.A.No.2/2014 before the Family Court, Udagamandalam, praying for an order to grant him visitation right. The interlocutory application was allowed by the Trial Court with a direction to exercise the visitation right on second and fourth Sunday of every month from 15 March 2016 onwards. The said order is under challenge in this civil revision petition.

2. The learned counsel for the petitioners contended that the child is not willing to move with the respondent and as such, the Trial Court was not correct in directing the petitioners to hand over the child on the second and fourth Sunday of every month.

3. The learned counsel for the respondent on the other hand submitted that the petitioners failed to produce the child before the Family Court to ascertain her views. It was only under such circumstances, the Trial Court passed an equitable order.

4. The respondent filed an application in I.A.No.2/2014 in GWOP 7 of 2014, before the Family Court, Udagamandalam, praying for an order to grant him visitation right. The learned trial Judge wanted to ascertain the wishes of the minor child. Therefore, direction was issued to the petitioners to produce the child before Court. The fact remains that the child was not produced under the pretext that the child would be snatched away from the custody of the petitioners.

5. There is no dispute that the paramount consideration is the welfare of the child. Even to ascertain the wishes of the child, the child must be produced before the Court. The petitioners deliberately made an attempt not to produce the child before the Trial Court. It was only under

such circumstances, and more particularly, taking into account the fact that the respondent is the biological father of the minor, the Trial Court allowed him visitation right. The discretionary order passed by the learned trial Judge does not call for interference, by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

6. In the upshot, I dismiss the civil revision petition. No costs. Consequently, M.P.No.1 of 2015 is also dismissed.

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Index:Yes/no
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To
The Family Court, Udagamandalam

K.K.SASIDHARAN, J.

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