

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.18175 of 2016

and

WMP.No.15937 of 2016

S.Basupathan
S/o.K.P.Sivakumar
Minor Rep. by her
Mother and Natural Guardian
Mrs.S.Radhika ...Petitioner

Vs.

1.The Regional Correspondent,
The Regional Office,
CBSE, Flat No.1630, 'A' J Block,
15th Main Road, Anna Nagar (W),
Chennai.

2.The Principal,
Vels Vidyashram,
Velan Nagar,
P.V.Vaithiyalingam Road,
Pallavaram, Chennai-117.

3.The Vice Principal,
Vels Vidyashram,
Velan Nagar,
P.V.Vaithiyalingam Road,
Pallavaram, Chennai-117.

4.P.Siva Kumar ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 2 and 3 to issue Transfer Certificate of the petitioner Basupathan for having studied in 4th standard and left the second respondent school to join in other school to continue his study.

For Petitioner : Dr.G.Krishnamurthy
For Respondents : Mr.A.Thiagarajan for R1 to R3

M/s.Sharmila
for Majestic Law Firm for R4

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would state that she married the fourth respondent on 31.01.2005 according to Hindu Customs and Rites and out of wedlock, a male child was born and he is aged about 9 years. The petitioner came to know that during the subsistence of marriage, the fourth respondent has contracted second marriage and that apart, also started harassing her both mentally and physically and therefore, the petitioner filed O.P.No.78 of 2016 under Section 13(1)(ia) of the Hindu Marriage Act before the Principal Family Court, Chennai against the fourth respondent praying for divorce and it is pending. The petitioner would further state that when she and the fourth respondent were living together, the child was admitted in Vels Vidyashram, Velan Nagar, Pallavaram and since the petitioner started living separately with her parents at No.1, Mavadi Vinayagar Koil Street, Royapettah, Chennai-14, she intend to get the Transfer Certificate for her son so as to admit him in Adharsh Matriculation School, Gopalapuram and when she approached the respondents 2 and 3, they have stated that her husband has raised objection that his son's Transfer Certificate cannot be issued and therefore, she came forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that on account of matrimonial discord, the petitioner and the fourth respondent started living separately and it is not in dispute that the custody of the child is with the petitioner and since she is residing with her parental home at Royapettah, Chennai, she intend to admit his son in Adharsh Matriculation School at Gopalapuram which is nearer to his place of residence and it is most difficult to take the child of tender age to Pallavaram for the purpose of education/studies and prays for appropriate orders.

4. Mr.A.Thiagarajan, learned counsel appearing for the respondents 2 and 3 would submit that in the event of Court passing orders for issuance of Transfer Certificate, they cannot have any serious objection and prays for appropriate orders.

5. The learned counsel appearing for the fourth respondent would submit that no doubt, the child is in the custody of the petitioner and she is the sole cause of trouble and she left the matrimonial home and started living separately and denied the allegation that the fourth respondent has contracted marriage for the second time and would further add that the issue regarding custody of the child, be left open to be decided by a competent forum, for which the learned counsel appearing for the petitioner would submit that it can be decided in an appropriate proceedings.

6. This Court has considered the rival submissions.

7. Admittedly, the custody of the child is with the petitioner and on account of matrimonial discord, divorce petition is filed in O.P.No.78/2016 on the file of the Principal Family Court at Chennai and it is pending. It is the case of the petitioner that she is residing with her parents at Royapettah, Chennai and also got admission for his son at Adharsh Matriculation School at Gopalapuram, Chennai. This Court taking into consideration of the fact that the child is with the custody of the petitioner and she will not be in a position to take her son to Pallavaram to continue his studies, the Transfer Certificate sought for by the petitioner from the respondents 2 and 3 shall be issued so as to enable her to admit her son in the said school.

8. In the result, this Writ Petition is disposed of with a direction to the respondents 2 and 3 to issue Transfer Certificate for the petitioner's son so as to enable the petitioner to get admission for his son in Adharsh Matriculation School, Gopalapuram. It is also made clear that this Court has not touched upon the merits of the divorce proceedings pending on the file of the Principal Family Court, Chennai and also the custody of the child with the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

jvm

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

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KR/7/6/16

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