

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.256 of 2017
& C.M.P.Nos.1129 and 1130 of 2017

S.Priya .. Petitioner

Vs.

K.Sathish Kumar .. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 21.12.2016 passed in I.A.No.1278 of 2016 in O.P.No.1746 of 2005 on the file of the III Additional Family Court, Chennai.

For petitioner : Mr.B.S.Jhothiraman

For respondent : Mr.R.Gunasekaran

ORDER

This revision is filed by the wife who is in custody of the child in challenging the order of visiting rights granted in favour of the respondent-husband. The husband had filed O.P.No.725 of 2005 for dissolution of the marriage. The wife has also filed a petition in O.P.No.1746 of 2005 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The child born out of the wed-lock is about 12 years. There are several other

applications filed mutually by the parties, which are pending. In the petition filed by the father for the custody of the male child, the Family Court has passed an order permitting the respondent-husband to have visitation rights of the minor child on the second and fourth Saturday of every month, in the Child Centre in the Family Court premises, Chennai, between 10 am and 12.30 p.m., pending disposal of the main O.P. This direction is now challenged by the wife who is in the custody of the child, on the ground that the husband has not paid maintenance and the husband is not interested in seeing the child and with other usual allegations. All those allegations can be proved in the trial. As this is only an interim relief of visitation rights, especially when the wife has filed O.P. for restitution of conjugal rights, in the welfare of the child, the impugned order passed by the trial Court has to stay. Section 9 petition filed by the wife only goes to show that she is willing to join her husband. In such a situation, it is surprising that why the wife should contest even the visitation rights given to the husband.

2. Without further discussing the case on merits, it is only the visitation rights that is given as an interim relief to the father and the same may be granted to the husband. The wife is directed to bring the child to the Child Centre, as directed by the Family Court, without fail. The other disputes between them can be resolved in the main O.P. There is no infirmity in the impugned order passed by the Court below. There is no

reason to interfere with the same. The Civil Revision is dismissed. The main O.P in O.P.No.1746 of 2005 filed by the wife, shall be disposed of by the Court below, as expeditiously as possible. No costs. C.M.Ps. are closed.

31.01.2017

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Copy to

The Third Additional Principal Judge,
Family Court, Chennai.

PUSHPA SATHYANARAYANA, J

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