

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.981 of 2014

and M.P.No.1 of 2014

1. Sankar Marimuthu
2. AV.M.V.Mani
3. Sasi

... Petitioners

v.

1. G.Vettivel
2. V.Malar @ Jothimalar

... Respondents

C.R.P filed under section 227 of C.P.C., to strike down the Guardian Petition filed by the 1st respondent herein in O.P.No.3612 of 2013 on the file of the I Additional Judge, Family Court, Madras.

For Petitioners : Mr.S.R.Raghunathan for
Mr.G.Saibaba

For Respondents : Mr.V.Karthic, Senior Counsel
for Mr.Adithya Varadharajan for
M.s K.V.Lar Firm (R1)

Mr.S.Parthasarathy, Senior Counsel
for Ms.Mahamandra Rajalakshmi (R2)

O R D E R

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

2. The respondents 2 to 4 in G.W.O.P.No.3612 of 2013 on the file of the I Additional Family Court, Chennai, have filed the above Civil Revision Petition to strike off the Guardian Petition filed by the 1st respondent in G.W.O.P.No.3612 of 2013, pending on the file of the I Additional Family Court, Chennai.

3. The learned counsel appearing for the petitioners contended that the 1st respondent, who is the maternal grand father is not entitled to invoke the proceedings of the Family Court by filing a petition seeking for custody of his minor daughters.

4. It is not in dispute that the 1st petitioner is the father and the petitioners 2 and 3 are his parents. 1st respondent is the maternal grand father of the minor children and the 2nd respondent is the wife of the 1st petitioner.

5. The learned counsel for the petitioners further submitted that the Family Court should have rejected the petition filed by the 1st respondent invoking the provisions of Guardians and Wards Act, 1890.

6. When the matter is taken up for hearing Mr.V.Karthic, learned Senior Counsel appearing for the 1st petitioner submitted that the 1st respondent has no objection for striking off the original Petition in G.W.O.P.No.3612 of 2013.

7. Mr.S.Parthasarathy, learned Senior Counsel appearing for the 2nd respondent submitted that the 1st petitioner has filed a separate Original Petition in G.W.O.P.No.4750 of 2013 on the file of the I Additional Family Court, Chennai under Section 25 of the Guardians and Wards Act, 1890, seeking to pass a decree appointing him as a Guardian of the minor children namely Kamalini and Nivedini. Therefore, the learned Senior Counsel submitted that there is no necessity for prosecuting the present Civil Revision Petition.

8. Since the 1st respondent who is the petitioner in G.W.O.P.No.3612 of 2013 himself has no objection for striking off the petition in G.W.O.P.No.3612 of 2013, I am of the view that the submission made by the learned Senior Counsel for the 1st respondent can be accepted and the petition in G.W.O.P.No.3612 of 2013 can be struck off from the file.

9. The learned counsel appearing for the petitioners submitted that since the Original Petition in G.W.O.P.No.4750 of 2013 on the file of the I Additional Judge, Family Court, Chennai is pending for a long time, the petitioners are put to hardship and prejudice and therefore, the Family Court may be directed to dispose of the said Original Petition within a time frame.

10. Having regard to the submissions made by the learned counsel on either side, the Original Petition in G.W.O.P.No.3612 of 2013 on the file of the I Additional Family Court, Chennai is struck off and the Civil Revision Petition stands allowed.

11. Since the Original Petition in G.W.O.P.No.4750 of 2013 is pending for a long time, I direct the I Additional Family Court, Chennai to dispose of the original petition in G.W.O.P.No.4750 of 2013 within a period of three months from the date of receipt of a copy of this order. No costs Connected miscellaneous petition is closed.

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Index:No

Note: Issue on 20.03.2017

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I Additional Judge, Family Court, Madras.

M. DURAISWAMY,J.,

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