

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09..01..2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR. JUSTICE N.AUTHINATHAN

Original Side Appeal No.162 of 2013
in
M.P.No.1 of 2013

Mrs.Kavitha

... Appellant

-Versus-

Mr.S.Sivakumar

... Respondent

Original Side Appeal under Order 36, Rule 1 of Original Side Rules r/w Clause 15 of Letters Patent, praying to set aside the order and decretal order dated 03.01.2013 made in Appln.No.3801 of 2011 in O.P.No.487 of 2011.

For Appellant : Mr.V.Chandrakanthan

JUDGMENT

(Judgement of the Court was delivered by S.NAGAMUTHU. J.)

The appellant is the wife of the respondent. She has filed O.P.No.487 of 2011 seeking custody of female minor child namely, Dhanashri, aged about 9 years to the appellant/petitioner. Presently, the child is in the custody of the respondent/respondent. Seeking interim custody of the child, pending disposal of the main case, she filed an application in Appln.No.3801 of 2011. That application was dismissed on 03.01.2013 by the learned single Judge. Challenging the same, the petitioner is before this court with the present appeal.

2. We have heard the learned counsel for the appellant and we have also perused the records carefully. The respondent has not made appearance as notice has not been served for want of payment of batta by the appellant.

3. A perusal of the records would go to show that the child in question has been all along in the custody of the respondent in Muscat. The learned single judge has even offered to permit the respondent to visit the child in Muscat at the expenses of the respondent. But, she refused. Having taken note of the paramount interest of the child, the learned single Judge has dismissed the application in which we do not find any infirmity at all. Thus, we do not find any merit in the appeal and the same deserves only to be dismissed.

4. In the result, the original side appeal is dismissed, however, considering the nature of the claim made, we request the learned single Judge to dispose of Original Petition in O.P.No.487 of 2011 itself at the earliest. No costs. Consequently, connected MP is closed.

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

kmk

To

The Sub Assistant Registrar,
Original Side High Court, Madras.

+1cc to Mr.Chandrakanthan, Advocate SR.No.1919

MG(CO)
GN(07/04/2017)

सत्यमेव जयते O.S.A.No.162 of 2013

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