



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MRS. JUSTICE J.NISHA BANU

C.M.A. (MD) Nos.47 to 51 of 2017

CMA (MD) .NO. 47/ 2017

1.Grace Kennett Foundation,
Madurai, through its Project
Correspondent, Office at No.8,
Kennett Road,
Madurai -16.

2.M.Thangarajan

3.T.Samudeswari

.. Appellants/Petitioners

Vs.

Nil

.. Respondents

CMA (MD) .NO. 48/ 2017

1 GRACE KENNETT FOUNDATION MADURAI,
THROUGH ITS PROJECT CORRESPONDENT,
OFFICE AT NO.8, KENNETT ROAD, MADURAI-16.

2 N.KANNAN

3 K.PATTU MARI

.. Appellants/Petitioners

Vs.

Nil

.. Respondents

CMA (MD) .NO. 49/ 2017

1 GRACE KENNETT FOUNDATION MADURAI,
THROUGH ITS PROJECT CORRESPONDENT,
OFFICE AT NO.8, KENNETT ROAD, MADURAI-16.

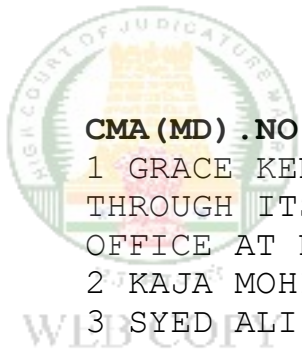
2 P.RAJAN

3 R.JEYANTHI

.. Appellants/Petitioners

Vs.

.. Respondents

**CMA(MD) .NO. 50/ 2017**

1 GRACE KENNETT FOUNDATION MADURAI,
THROUGH ITS PROJECT CORRESPONDENT,
OFFICE AT NO.8, KENNETT ROAD, MADURAI-16.
2 KAJA MOHIDEEN
3 SYED ALI FATIMA

.. Appellants/Petitioners

Vs.

Nil

.. Respondents

CMA(MD) .NO. 51/ 2017

1 CHRISTOPHER DOUGLAS WAGLER
2 ANGELA KAY WAGLER (PETITIONERS 1 & 2 RESPONDENTS BY THEIR
POWER OF ATTORNEY MS.V.NIRMALA SORUBARANI, SOCIAL WORKER, GKF,
MAZHALAI ILLAM, MADURAI.)
3 GRACE KENNETT FOUNDATION MADURAI,
THROUGH ITS PROJECT CORRESPONDENT,
OFFICE AT NO.8, KENNETT ROAD, MADURAI-16.

.. Appellants/Petitioners

Vs.

Nil

.. Respondents

Common Prayer in CMA (MD).NOS.47 to 50 of 2017:

Civil Miscellaneous Appeal has been filed under Section 19 of the Family Court Act, praying to set aside the award passed in J.J.O.P.No.13 of 2016, J.J.O.P.No.14 of 2016, J.J.O.P.No.15 of 2016, J.J.O.P.No.16 of 2016, Common Order dated 30.11.2016 on the file of the Family Court, Madurai.

Prayer in CMA(MD). 51/ 2017 :

Civil Miscellaneous Appeal has been filed under Section 19 of the Family Court Act to set aside the common order dt.30/11/2016 passed in I.A.No.204/2016 in Unnumbered JJOP.No. /2016 on the file of the Family Judge, Madurai.

For appellants : Mrs.S.Vijayashanthi

For State : Mr.B.Pugalendhi,
Addl. Advocate General, assisted by
Mr.N.S.Karthikeyan,
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SUBBIAH, J.**)

All these appeals have been filed as against the common order, dated 30.11.2016, passed in J.J.O.P.Nos.13 to 16 of 2016 and I.A.No.204 of 2016 in unnumbered J.J.O.P. by the Family Court, Madurai.



2. It is stated in the appeals that the Grace Kennett Foundation is a charitable institution permitted by the Social Welfare and Nutritious Meal Programme Department and it is taking care of abandoned children and in their interest some of the children are given in adoption to the couple who have no issues at all. The appellants herein filed petitions under Section 41 of the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended by Act No.33 of 2006 r/w Rule 33 of the Juvenile Justice (Care and Protection of Children) Rules, 2007, before the Family Court, Madurai, seeking to permit the charitable institution viz., Grace Kennett Foundation, Madurai to give adoption of the minor children to the persons impleaded as the other appellants in the respective cases. But, the Family Court Judge, vide common order dated 30.11.2016, has returned all the petitions stating that the object of the Constitution of the Family Court is only to promote conciliation in, and secure speedy settlement of disputes relating to marriage and family affairs and for matters connected therewith and therefore, the Family Court has no power to exercise the jurisdiction under Juvenile Justice Act. Aggrieved by the same, the appellants have come up with these appeals.

3. When the matter was taken up for consideration, this Court directed the learned Additional Advocate General to give a clear picture in this matter. The learned Additional Advocate General submitted that as per Section 2(23) of the Juvenile Justice (Care and Protection of Children) Act, 2015, the "Court" means a Civil Court which has jurisdiction in matters of adoption and guardianship and may include the District Court, Family Court and City Civil Courts. As per Section 2(3) of the Juvenile Justice (Care and Protection of Children) Act, 2015, "adoption regulations" means the regulations framed by the Authority and notified by the Central Government in respect of adoption. Now, the Ministry of Women and Child Development, by Notification dated 04.01.2017, introduced Adoption Regulations, 2017 and the same came into effect from 16.01.2017. A copy of the said regulation has also been produced before this Court. As per Clause 12(2) of the Adoption Regulations, 2017, the Specialised Adoption Agency shall file an application in the given format, as per Schedule XXVIII or XXIX, as applicable. In the model application in case of orphan or abandoned or surrendered child(ren) to Court for in-country adoption, appended to Schedule XXVIII, it is that "in the Court of Ld. District Judge / Addl. District Judge, District Court / Principal Judge / Judge, Family Court or Civil Judge / Addl. Civil Judge (Senior Division), as the case may be. Similarly, in the model application in case of orphan or abandoned or surrendered child(ren) to Court for inter-country adoption, appended to Schedule XXIX, it is stated that "in the Court of Ld. District Judge / Addl. District Judge, District Court / Principal Judge / Judge, Family Court or Civil Judge / Addl. Civil Judge (Senior Division), as the case may be.



Thus, the learned Additional Advocate General submitted that the Juvenile Justice Original Petitions are maintainable before the Family Court.

4. At this juncture, the learned counsel appearing for the appellants invited the attention of this Court to Section 7(2) (b) of the Family Court Act, 1984 which reads as follows;

"7. Jurisdiction. (1).... (2) Subject to the other provisions of this Act, a Family Court shall also have and exercise- (a)... (b) such other jurisdiction as may be conferred on it by any other enactment."

5. Reading of the above said Provisions, Rules and Regulations, makes it clear that the Family Court can also entertain the Juvenile Justice Original Petitions. It is seen that the Court below has returned the petitions only relying on the object of the Family Court Act. When there is a specific provision under Section 7(2) (b) of the Family Court Act itself that such other jurisdiction as may be conferred on it by any other enactment would lie, the Court below ought to have entertained the petitions.

6. In view of the above, all the civil miscellaneous appeals are allowed and the impugned common order, dated 30.11.2016, passed by the Court below is set aside and the learned Family Court Judge, Madurai is directed to entertain all the Juvenile Justice Original Petitions, take them on file as the petitions filed under the new Act viz., Juvenile Justice (Care and Protection of Children) Act, 2015, and decide the same on merits and in accordance with law. No costs.

Sd/-

Assistant Registrar (CSIII)

/True Copy/

Sub-Assistant Registrar/-

To

1. The Judge,
Family Court,
Madurai.

Gcg

MAS/SV-MMS:14.03.2017:4P-2C

C.M.A. (MD) Nos.47 to 51 of 2017
15.02.2017