



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.11.2017
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.427 of 2016
and
C.M.P. (MD) .No.5726 of 2016

P.Ranjith Kannan ... Appellant

Vs.

R.Dhanalakshmi ... Respondent

Prayer: Appeal filed under Section 47 of Guardian and Wards Act, 1890, to set aside the judgment and decree in G.W.O.P.No.37 of 2014, dated 10.02.2016, on the file of the Additional District and Session Judge, Theni at Periyakulam, Theni District.

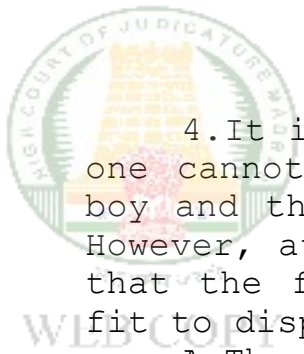
For Appellant : Mr.K.Prabakaran
For Respondent : Mr.D.Ramesh Kumar

JUDGMENT

Heard the learned counsel on either side.

2.The appellant herein is the father. The respondent is the mother. Sivanandi @ Kamalesh is the minor child born to the parties herein. The marital relationship between the parties is under strain. The appellant appeared in person before this Court and fairly stated that he does not have any complaint against his wife. But she is under the influence of her father and other relatives chose to foist a false case against him. The appellant had therefore filed a case for divorce. It is still pending. This Court can only express its hope that the issue between the parties will be amicably resolved at some point of time in future.

3.Be that as it may, the appellant filed G.W.O.P.No.37 of 2014, dated 10.02.2016, on the file of the Additional District and Session Judge, Theni at Periyakulam, Theni District, seeking custody of his minor child. The Trial Judge dismissed the same by order dated 10.02.2016. The said order of dismissal is under challenge in this Court. I had a personal session with the minor child. The child is being brought up well by his mother. But the fact remains that financially, the father is a better placed to bring up the child. The father made an earnest plea that he should be given custody of his child.



4.It is true that the interest of the child is paramount. But one cannot lose sight of the fact that Kamalesh is a very young boy and that it would be unfair to separate him from his mother. However, at the same time, this Court taking into account the fact that the father will give good education to his child, deems it fit to dispose of the appeal in the following terms:-

A.The appellant is declared to be guardian of the minor child Kamalesh.

B.The respondent/mother is entitled to have the physical custody of the child.

C.The appellant or his mother viz., the grand mother of the child shall go to the respondent's place and bring the child every Friday evening and drop the child back every Sunday evening. In other words, the child shall be with the appellant in the week-end.

d.It is made clear that when the appellant or his mother come to pick up the child, the respondent and her relatives shall extend their fullest cooperation. The child shall be properly counselled so as to enable the child to develop a natural bonding with the father.

5.The order dated 10.02.2016 made in G.W.O.P.No.37 of 2014, on the file of the Additional District and Session Judge, Theni at Periyakulam is modified.

6.This Civil Miscellaneous Appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District and Session Judge,
Theni at Periyakulam, Theni District.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+ 1 cc TO Mr.K.Prabakaran , Advocate in SR No. 87804

tsg

AE/MR KKR/SAR4/29.11.2017/2P/4C

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