



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.895 of 2015

and

M.P. (MD) .No.1 of 2015

A.Muthukrishnan

... Appellant/Petitioner

Vs.

P.Ayyasamy

... Respondent/Respondent

Prayer: Appeal filed under Section 55 of the Guardians and Wards Act, to set aside the order dated 10.04.2015 made in G.W.O.P.No.36 of 2012 on the file of the Principal District Court, Theni and consequently appoint the appellant as the guardian of the minor Harishini aged 4 years.

For Appellant : Mr.S.Gokul Raj
For Respondent : No Appearance

JUDGMENT

Heard the learned counsel for the petitioner. No representation on behalf of the respondent.

2.The appellant and the daughter of the respondent herein viz., Rani Chandra got married on 13.06.2008. The minor child Harishini was born to them. Unfortunately, the said Rani Chandra committed suicide on 13.06.2012. In this regard, criminal prosecution was initiated against the appellant. He is still facing the criminal case. The child remained with the respondent, who is the maternal grandfather. Seeking custody of the child, the appellant filed G.W.O.P.No.36 of 2012. The learned trial Judge took note of the criminal case pending against the appellant and dismissed the petition by order dated 10.04.2015. Challenging the same, this appeal has been filed.



3. During the pendency of this appeal, certain developments took place. It is stated that the respondent got remarried. The child appears to have been with the maternal uncle. It is also stated that the child was not properly maintained. Therefore, on account of the intervention through the child line, the custody of the child was given to the appellant. In other words, even though G.W.O.P.No.36 of 2012 filed by the appellant came to be dismissed, the custody of the child was restored to him.

4. I directed the appellant to produce the child before me. I examined the child in the chambers. I found that the child is happy and cheerful and is being brought up well.

5. Under these circumstances, the question of handing over the child to the custody of the respondent will not arise. I therefore set aside the order dated 10.04.2015 in G.W.O.P.No.36 of 2012 on the file of the Principal District Judge, Theni. G.W.O.P.No.36 of 2012 has to be allowed. The appellant is the natural guardian. He is also entitled to have the custody of the minor child Harishini.

6. This civil miscellaneous appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(A.E)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge, Theni.

2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

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JS/MR.KKR/SAR.3/05.12.2017/2P-3C

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