



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**CRP(PD)(MD)No.1677 of 2017
and
CMP(MD)No.9266 of 2017**

A.Arulraj ... Petitioner/Petitioner/Respondent
vs.
E.Jacquelin Rubella ... Respondent/Respondent/Petitioner

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 19.06.2017 in I.A.No.403 of 2016 in IDOP.No.19 of 2016 on the file of Family Court, Madurai.

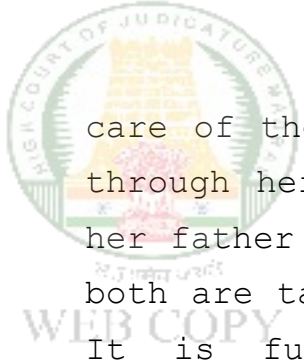
For Petitioner : Mr.P.Gokulnaath
For Respondent : Mrs.Vijayashanthi

ORDER

This revision petition has been filed against the fair and decreetal order dated 19.06.2017 in I.A.No.403 of 2016 in IDOP.No.19 of 2016 on the file of Family Court, Madurai.

2.Learned counsel for the petitioner would submit that the petitioner and respondent are husband wife. The petitioner filed the present interlocutory application to direct the respondent/wife to give custody of the minor daughter namely, Arul Shirlene Jessica with him till the disposal of IDOP.19/16, contending that the respondent is working in HCL, Chennai, for gain by leaving her child in the custody of her mother, who is an aged lady cannot maintain the minor child properly and therefore, the custody of his minor daughter has to be ordered in his favour.

3.Learned counsel for the respondent would contend that even though her mother is a diabetic patient, she is well enough to take

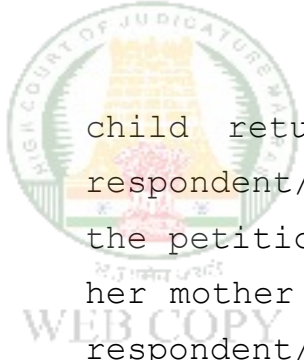


care of the child and she also financially supports the respondent through her pension amount. The respondent further contended that her father is well educated and her mother is a retired teacher and both are taking care of her daughter who is admitted in pre-school. It is further contended that the petitioner challenged the respondent that he will separate her and the child and the petitioner has no job and therefore, he cannot maintain the child without any source of income and the order passed by the learned Judge is a well considered order and does not require interference by this Court.

4. Heard the learned counsels for the petitioner as well as the respondent.

5. Perusal of the records shows that admittedly, the child is aged 3½ years. Before the Court below, the respondent/wife has explained the situation which are better to her to bring up the child. She has specifically stated that her mother and father who are retired persons are with her to help her to bring up her child. However, the petitioner has not explained the situation in his favour to bring up the child. The petitioner has simply stated that the mother of the respondent is an aged lady and therefore, she cannot maintain the child properly and hence custody of the child should be given to him. Except this reason, the petitioner did not offer any valid and acceptable reason to take custody of his daughter.

6. The matter was mediated in Chambers and it is specifically stated by the respondent/mother that the child is admitted in pre-KG and when the child reaches home, she is in the door step to receive the child. In this regard, the Court below observed that in these modern days in Chennai like Metropolitan cities, office going wives are simply leaving the child in Creche or in Pre-KG and used to take back the custody of the child. But in the case on hand, the mother of the petitioner is in the house to receive the child when the



child returns from the school. The age of the mother of the respondent/wife is not a ground to order custody of the child with the petitioner. Further, the contention of the respondent/wife that her mother is well and strong is not denied by the petitioner. The respondent/wife also contended that the child is only 3½ years old and she is under the proper care and custody of her. No acceptable reason is offered by the petitioner /husband to give custody of the child before this Court.

7. After deliberations, it was agreed by the parties concerned that the custody of the child be with the mother and the petitioner may be permitted to see his daughter. Therefore, this Court while declining to allow this revision petition, is inclined to issue direction for visitation of the child. Accordingly, the petitioner is directed to visit Infant Jesus Church at Bangalore on the first Sunday of every English Calendar month from 10.00 am to 12.00 p.m to see his daughter and the petitioner is directed to bring the child as per the above direction so as to enable the petitioner to see his daughter.

With the above direction, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar ()

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Family Court, Madurai.
 2. Do throu the Principal District Judge, Madurai.
- +1cc to M/S.P.GOKULANAATH, Advocate SR.No.90929.

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