

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 06TH DAY OF SEPTEMBER 2018

THE HON'BLE MR. JUSTICE P.D.AUDIKESAVALU

A.No. 6254 of 2018

in
O.P.No.388 of 2011

Mr.Srinivasan,
S/o.Krishnaswamy Naidu,
No.104, 1/A, Main Road,
Mel Bhuvanagiri, Chidambaram Taluk,
Cuddalore District.

...Petitioner

-Versus-

Mrs.T.Chandravandhana,
W/o.Mr.Srinivasan,
No.34/40, Palani Andavar Street,
Karthik Apartments,
Vadapalani, Chennai-600 026.

...Respondent

A.No.6254 of 2018

Mr.Srinivasan,
S/o.Krishnaswamy Naidu,
No.104, 1/A, Main Road,
Mel Bhuvanagiri, Chidambaram Taluk,
Cuddalore District.

...Applicant

-Versus-

1. Mrs.T.Chandravandhana,
W/o.Mr.Srinivasan,
No.34/40, Palani Andavar Street,
Karthik Apartments,
Vadapalani, Chennai-600 026.

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2. The Director General of Police
Tamil Nadu
Post Box No.601,
Dr.Radhakrishnan Salai, Mylapore,
Chennai 600 004.

3. The Commissioner of Police,
Grater Chennai Corporation,
Vapery, Chennai 600 007.

4. The Superintendent of Police,
District Police Office,
Nethimedu,
Salem-636 002.

5. The Superintendent of Police,
District Police Office,
1st Floor, Nallipalayam,
Namakkal-637 003. ... Respondent

Application praying that this Hon'ble Court be pleased to implement the orders of this Hon'ble Court passed in OP.NO.388 of 2011 dated 31.07.2018 thereby, directing the 2nd respondent i.e. the Director General of Police, Government of Tamil Nadu to remove the minor S Krishnavareshini, from the custody of the respondent, wherever she may be found and to return the custody of the minor S Krishnavareshini to the petitioner.

This Application coming on this day before this court for hearing the court made the following order:-

In O.P.No.388 of 2011 this Court passed a final order dated 31.07.2018 holding that the petitioner viz., K. Srinivasan is entitled to permanent custody of the minor

child viz., S. Krishnavareshini and the respondent was directed to handover the minor child to the petitioner within 10 days from the date of that order.

2. This application has been filed to implement the aforesaid order passed by this Court by directing the Director General of Police, Government of Tamilnadu to remove the said minor child, S.Krishnavareshini, from the custody of the respondent wherever she may be found and return the custody of the said minor to the petitioner.

3. The following orders were passed by this Court during the earlier hearings:

14.08.2018

"This Court by order dated 3.107.2018 in O.P.No.388 of 2011 had directed the respondent to handover the minor child Kumari.S.Krishnavareshini to the petitioner within ten days from the date of receipt of that order.

Learned Counsel for the Respondent has filed a Memo dated 14.08.2018 stating that he had made an application for issuance of certified copy of the order vide C.A.No.34970,

but the same has not yet been ready.

Registry is directed to immediately issue certified copy of the order to the learned counsel for the Respondent by 16.08.2018.

Call the matter on 17.08.2018."

20.08.2018

"During the hearing on 14.08.2018, the learned counsel for the Respondent had filed a memo stating that the certified copy of the order dated 31.07.2018 had not been furnished by the Registry. This Court has ordered the Registry to issue the same to the Respondent on 16.08.2018 and report compliance on 17.08.2018.

Today, the learned counsel for the Respondent states that he has received the certified copy on 16.08.2018. In the order dated 31.07.2018, the Respondent had been directed to handover the minor child within a period of 10 days.

Post the matter on 27.08.2018 for reporting compliance of the order passed on 31.07.2018."

27.08.2018

"Mr.T.S.Arthanareeswaran, learned counsel appearing for the Respondent states that the child has gone abroad and would return in the second week of September 2018. It is shocking that despite the order dated 31.07.2018 in O.P.No.388 of 2011 passed by this Court, the Respondent had taken away the child to a foreign country without prior permission of this Court.

2. Learned counsel for the Respondent further states that he would furnish the particulars of return date, return ticket along with the copy of Passport on 29.08.2018.

Call the matter on 29.08.2018 for passing further orders."

29.08.2018

"Counsel for the Petitioner is present. No representation for the respondent.

2. The learned counsel for the Respondent during earlier hearing on 27.08.2018 had undertaken to furnish the particulars of date of return of minor child along with the copy of the return ticket and passport and the same

has not been complied.

3. Call the matter on 03.09.2018 for passing further orders."

04.09.2018

"Learned counsel for the respondent Mr.T.S.Arthanareeswaran has filed a memo today i.e., 4.9.2018 along with copy of Return Ticket and copy of Passport of the minor Child Ms. Krishnavareeshini and states that the child has returned to India on 2.9.2018 and that she has gone to school at Servaray Valley School, Yercaud. Further the learned counsel has requested that the matter may be posted on 6.9.2018 for the appearance of the minor child before the Court. Copy of the memo has been furnished to the learned counsel for the petitioner. Hence, list the matter on 06.09.2018 at the end of the list."

4. Today, when the matter was called, the minor child viz., S.Krishnavareeshini, is present along with the respondent. The minor child pleaded that she is unwilling to be with the petitioner. In this context, it requires to be pointed out that in the order dated 31.07.2018 in O.P.No.388 of 2011 this Court has observed as follows:

"18. It is also submitted by the learned counsel that the child is all along with the mother. During 2011 she was not willing to go with the father. It is to be noted that the child, because of long association of mother all these years would say that she is not willing to go with the father. Such conduct of the child is normal due to close association with one of the spouses, such advertence is the result of tutoring and poisoning of her mind that cannot be ignored by this court. Even during the vacation this Court granted interim custody of visitation right for 15 days to the father, it was informed to the Court that during that visit the child was comfortable with the father. Taking into consideration of the above facts, the petitioner is entitled for permanent custody of the minor child. It is also open to the respondent, to visit the child whenever she wants to see the child and the petitioner shall not resist the same. Both the petitioner and the respondent should not poison the mind of child accusing each other. This court hope that the petitioner and the respondent can keep aside their strained relations for the betterment of the child. The respondent shall handover the minor child to the petitioner within ten (10) days from the date of this order. The petitioner also make every endeavour to see that minor child

education and continuity is not affected. The point is answered accordingly."

Since this Court has already given specific findings on this aspect of the matter, it is not possible to modify the earlier order passed *qua* this application filed at the behest of the petitioner to implement that order.

5. Further, it is brought to the notice of the Court by the learned counsel for the respondent that the minor child is presently studying at Sheveroy's Valley Boarding School at Yercaud and staying in a hostel attached to that school, while the respondent is residing at Tiruchencode. In order to ensure that the education of the child is not affected, the petitioner agrees that he would accompany the child along with the respondent and leave her at the hostel attached to the aforesaid school at Yercaud where she is now studying, and would perform his obligations as the guardian of that minor child.

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6. It is made clear that though the child would continue to study in the aforesaid school at Yercaud and stay in the hostel there, the custody of the child shall be with the petitioner as directed in the aforesaid order

dated 31.7.2018 in O.P. No.388 of 2011 and the parties shall act in accordance with the directions issued in that order.

7. Learned counsel for the petitioner further submits that the respondent had deleted the name of the petitioner as the father of the minor child in the official records including those in the school where the child is now studying. It is needless to state that it is open to the petitioner to approach the concerned authorities to restore his name as the father of the child in the records in the manner recognised by law, and he can also produce a copy of the order passed by this Court on 31.7.2011 in O.P.No.388 of 2011 to support his claim that he is entitled to permanent custody of the child.

8. In view of the fact the minor child has been produced before this Court and taking into consideration the aforesaid events that have taken place, it is not necessary to issue any direction to the Director General of Police, Government of Tamilnadu to remove the minor child from the custody of the respondent as sought in this application.

9. The application is disposed of with the aforesaid observations.

Sd/-P.D.A.J

06.09.2018

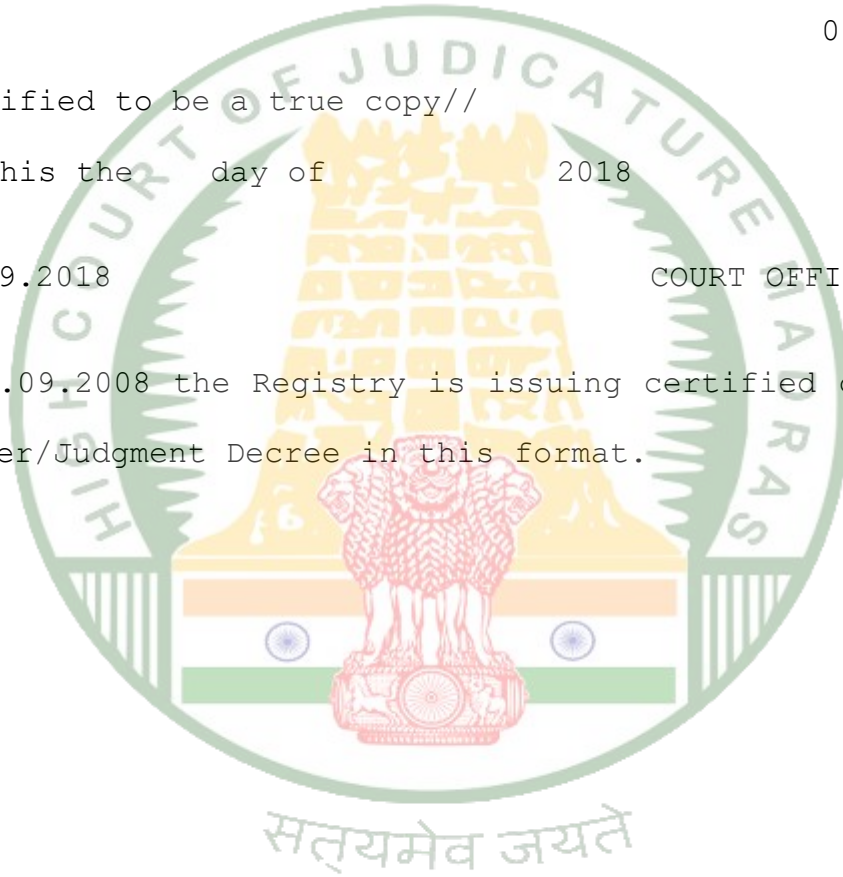
//Certified to be a true copy//

Dated this the day of 2018

JJ 11.09.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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