



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.215 of 2016
and
CMP(MD)No.2896 of 2016

Alagu Pushpam

... Appellant/Respondent

Vs.

N.Subburaj

...Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal is filed under Section 47 of the Guardians and Wards Act against the fair and decreetal order dated 20.11.2015 in GWOP.No.3 of 2013 on the file of the III Additional District Judge, Tirunelveli.

For Appellant : Mr.S.Pon Senthil Kumaran

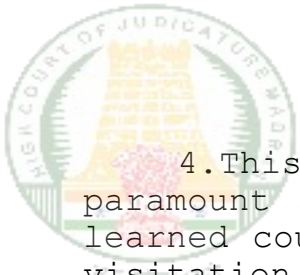
For Respondent : Mr.A.Thiruvadikumar

JUDGMENT

The appellant and the respondent got married on 07.09.2003 as per Hindu rites and customs. A girl child Srimathy was born on 07.07.2008. The marriage relationship between the parties came under strain. The allegation made by the husband/respondent is that the appellant had developed illegal intimacy with another person and she had also conceived as a result of such a relationship. Therefore, the respondent filed a petition for dissolving the marriage. In the meanwhile, he filed GWOP No.3 of 2013 before the III Additional District Judge, Tirunelveli seeking guardianship and custodial rights over the child. The learned III Additional District Judge, Tirunelveli by order dated 20.11.2015 allowed the petition as prayed for. Questioning the same, this appeal has been filed.

2.Heard the learned counsel on either side.

3.The child is presently in the custody of the respondent. The court below passed the impugned order only after examining the child. The child categorically deposed that she wants to go only with the father and she does not want to go with the mother and the child also expressed her further apprehension that the mother would brand her. Taking note of the deposition given by the child, the court below chose to allow the GWOP filed by the respondent herein.



4.This Court is of the view that the interest of the child is paramount and that therefore, no interference is called for. The learned counsel for the appellant submits that the mother may given visitation rights. This request of the appellant's counsel is reasonable. It is made clear that the appellant will not have the physical custody of the child. She can only visit the child. She can visit the child on the first Sunday of the every month. The respondent is directed to afford appropriate arrangements in this regard.

5.With this direction with regard to the visitation rights of the appellant, this appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/

Assistant Registrar (Crl Side)

/True copy/

Sub Assistant Registrar (CS-II)

To

1.The III Additional District Judge, Tirunelveli.

2.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1cc to Mr.S.PON SENTHIL KUMARAN, Advocate, SR.No.75599

+1cc to Mr.A.THIRUVADI KUMAR, Advocate, SR.No. 75598

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SKM

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