



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2018

CORAM

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THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P(MD) No.1076 of 2018

S.Vinod

... Petitioner

-Vs-

1.The Superintendent of Police,
Kanyakumari District,
at Nagercoil.

2.The Inspector of Police,
Kollamcode Police Station,
Kanyakumari District.

3.S.Sreevidhya

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to provide adequate police protection for the petitioner to take the petitioner's child on every Thursday by considering the representation of the petitioner, dated 04.10.2017.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.B.Bhagawathi for RR-1&2
Government Advocate

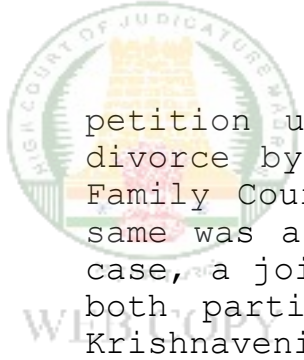
Mr.C.Godwin for R-3

O R D E R

This writ petition has been filed to direct the respondents to provide adequate police protection for the petitioner to take the petitioner's child on every Thursday by considering the representation of the petitioner, dated 04.10.2017.

2.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 & 2 and the learned counsel appearing for the third respondent.

3.The learned counsel appearing for the petitioner has submitted that the petitioner and the third respondent have filed a



petition under Section 13B of Hindu Marriage Act, 1955, seeking divorce by mutual consent and the same was taken on file by the Family Court, Thiruvananthapuram in OP(HMA).No.628 of 2015 and the same was allowed on 31.10.2015. He further submitted that in that case, a joint memo was filed, in which, it is specifically agreed by both parties that the petitioner is entitled to take the child Krishnaveni from the residence of the third respondent on all Thursdays and return her before 6.00 p.m on the same day and contrary to the said agreement, the third respondent is not allowing the petitioner to take the child on Thursdays and hence, he requests this Court to direct the respondents 1 & 2 to provide police protection for taking the child on all Thursdays.

4.The learned counsel appearing for the third respondent has submitted that though the parties have filed a joint memo with aforesaid clause, the Family Court, while passing judgment, has not passed any order with regard to the visitation right of the petitioner. He further submitted that the petitioner has to approach the competent court by filing application seeking visitation right of the child under Section 25 of the Guardians and Wards Act, 1890 and the said relief cannot be granted in this writ petition.

5.The copy of the judgment passed in OP(HMA).No.628 of 2015 on the file of the Family Court, Thiruvananthapuram, dated 31.10.2015 is perused, in which, it is not ordered that the petitioner is entitled to take the minor child on all Thursdays and therefore, the petitioner has to file proper application for seeking visitation right of the child before the competent court under Section 25 of the Guardians and Wards Act, 1890 and get remedy. Without getting any such order in his favour, he cannot seek police protection for taking the child and therefore, this petition is liable to be dismissed.

6.In the result, this writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The Superintendent of Police, Kanyakumari District,
at Nagercoil.

2.The Inspector of Police, Kollamcode Police Station,
Kanyakumari District.

+One cc to Mr.S.C.Herold Singh, Advocate, SR.No.49193

+One cc to Mr.C.Godwin, Advocate, SR.No.49119

+One cc to The Special Government Pleader, SR.No.49380

vs