



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P.(MD)No. 1395 of 2018
and C.M.P.(MD) No. 5994 of 2018

Selvam : Revision Petitioner/Respondent/Petitioner
-Vs-

Selvaraj : Respondent/Petitioner/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records relating to the fair and decreetal order dated 24.04.2018 in I.A.No.18 of 2018 in H.M.O.P. No.129 of 2016 passed by the learned Subordinate Judge, Virudhunagar and allow the same.

For Petitioner : Mr.D.F. Arjana Ghoushia
For respondent : Mr.J. Senthil Kumaraiah

O R D E R

This Civil Revision Petition is filed to call for the records relating to the fair and decreetal order dated 24.04.2018 in I.A.No.18 of 2018 in H.M.O.P. No.129 of 2016 passed by the learned Subordinate Judge, Virudhunagar and allow the same.

2. The revision petitioner is the wife and the respondent is the husband. The revision petitioner/wife has filed a petition in H.M.O.P. No.129 of 2016 before the learned Subordinate Judge, Virudhunagar for divorce on the ground of cruelty. During the pendency of the HMOP the respondent/husband has filed G.W.O.P. No.12 of 2017 before the learned Principal District Judge, Madurai to hand over the custody of minor child namely Monika Sri. Thereafter, the respondent has filed a interlocutory petition in I.A.No.18 of 2018 in H.M.O.P. No.129 of 2016 seeking custody of minor child Monika Sri for two days i.e., in a week i.e., Saturday and Sunday till the disposal of the main H.M.O.P. No. 129 of 2016 and the learned Subordinate Judge, Virudhunagar allowed the same and passed the following order;

"The petitioner shall take the child at or after 8 a.m on every Saturday morning from the respondent's house at Virudhunagar and shall hand over the child at the respondent's house on Sunday at or before 6 p.m till the disposal of the HMOP. "

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Aggrieved over the same, the revision petitioner/wife herein has

filed the present Civil Revision Petition.

3. When the matter came up before me for hearing on 09.07.2018, both the parties were directed to appear before the Chamber at 5 p.m on 16.07.2018. Since, there was no settlement reached between the parties, on that day, the matter was listed on 19.07.2018. When on 19.07.2018, this matter was taken up for hearing, this Court has passed the following order;

" Therefore, the petitioner is directed to produce the Child before the MMBA Association, Madurai Bench of Madras High Court, Madurai on 21.07.2018 at 9 a.m., Thereafter, the President of the MMBA Association is directed to produce the child to the respondent at 10 00 a.m., and the petitioner shall take the child from 10.00 a.m., to 6.00 p.m. The petitioner should not interfere with the custody of the minor child with the respondent/husband before 10.00 a.m., to 6.00 p.m.

The Secretary of the MMBA Association is present before this Court and undertakes that the Bar shall take appropriate steps to handover the child to the respondent/husband from 10.00 a.m., to 06.00 p.m."

4. When the matter is listed today, the learned counsel for the petitioner informed this Court that he wants to withdraw his appearance from the case, as the petitioner has not complied with the order dated 19.07.2018 passed by this Court. The learned counsel for the petitioner has also filed a memo, in which it is stated as follows;

" It is submitted that revision petitioner in C.R.P.(MD) No.1395 of 2018 who is wife of the respondent. The respondent was filed I.A.No.18 of 2018 before the learned Sub-Judge, Virudhunagar to direct the revision petitioner/wife to hand over the custody of minor child namely Monika Sri for two days in a week (Saturday, Sunday). The above I.A was allowed in favour of the respondent, against which revision petitioner/wife prepared the above said Criminal Revision Petition.

It is submitted that the above said C.R.P was came up for hearing on 19.07.2018 before this Hon'ble Court, On that date this Hon'ble Court was directed the petitioner to produce the child before the MMBA Association Madurai Bench of Madras High Court on 21.07.2018 at 09.00 a.m, thereafter the President of the MMBA Association is directed to produce the child to the respondent at 10.00 a.m and respondent take the child 10.00 a.m to 06.00 p.m further the petitioner this Hon'ble Court was directed the petitioner should not interfere the custody of the minor child with the respondent before 10.00 a.m to 06.00 p.m.

It is submitted that based on the this Hon'ble Court's order the respondent and his father along with respondent Counsels were appeared pm 21.07.2018 at about 09.30 a.m and



petitioners counsel and the president of the MMBA also present at about 09.30 a.m but petitioner and minor child did not appeared. The president of the MMBA was contact the revision petitioner through association land-line but the revision petitioner not attend the call. All of them waiting till 02.00 p.m thereafter the same was informed the president of the MMBA association by respondent counsel and all them left the association at 02.15 p.m.

Therefore, it is prayed that this Hon'ble Court may be pleased to accept this memo and recorded the same and pass suitable order and thus render justice".

5. The learned counsel for the respondent submitted that this Court, by Order dated 19.07.2018, directed the petitioner/wife to produce the minor child before the MMBA Association, Madurai Bench of Madras High Court on 21.07.2018 at 09.00 a.m for one day. Now the learned counsel for the respondent filed a memo stating that the respondent/husband and his father along with respondent Counsel were present on 21.07.2018 at about 09.30 a.m., though the petitioner's counsel and the President of the MMBA were also present at 09.30 a.m., in the MMBA on the said date the petitioner did not appear along with the minor child. When the President of the MMBA contacted the revision petitioner through phone (landline) the revision petitioner did not pick up the call. Though they all awaited till 02.00 p.m for her arrival, she did not turned up. Therefore, the learned counsel for the respondent and the learned counsel for the petitioner left the place at 02.15 p.m., after informing the petitioner's disobedience to the President of MMBA Association .

6. It is pertinent to state here that the order dated 19.07.2018 was passed in the presence of both the counsel and the petitioner/wife was directed to hand over the child on 21.07.2018, but the petitioner wantonly disobeyed the order passed by this Court.

7. Now the learned counsel for the petitioner filed a memo stating that the Order dated 19.07.2018 was communicated to the petitioner and instead of repeated reminders, she did not come forward to produce the minor child. Therefore, the learned counsel is not willing to conduct the case on behalf of the petitioner and therefore, he seeks to withdraw his vakalat. The request for withdrawal is accepted and registry is directed to delete the name of the counsel for the petitioner.

8. Heard the learned counsel for the respondent. The petitioner is working as a Police Constable, Virudhunagar District. But, the petitioner purposely disobeyed the order passed by this Court. Being a Government employee, the petitioner must obey the order passed by this Court. But, purposely the petitioner has not turned up and she has also not contacted her counsel, even after repeated reminders by her counsel. Therefore, I am inclined to



dismiss this Civil Revision Petition.

9. In the result,

(i). this Civil Revision Petition is dismissed with a cost of Rs.1,00,000/- (Rupees One Lakh Only) payable by the petitioner to the Hon'ble Chief Justice Relief Fund attached to this Court within a period of two weeks from the date of receipt of copy of this order.

(iii). Since the petitioner is working as Police Constable, the Superintendent of Police, Virudhunagar District is directed to take appropriate action against her for wilfully disobeying the order passed by this Court on 19.07.2018 in this Civil Revision Petition and further directed to initiate the disciplinary proceedings against her.

(iv). The learned Subordinate Judge, Virudhunagar is directed to give effect to the order dated 24.04.2018 in I.A.No.18 of 2018 in H.M.O.P. No.129 of 2016, by directing the Superintendent of Police, Virudhunagar District to nominate appropriate police persons to take the custody of child from the petitioner and hand over the same to the respondent/husband as per the order dated 24.04.2018 in I.A.No.18 of 2018 in H.M.O.P. No.129 of 2016.

(v). The Superintendent of Police, Virudhunagar District is directed to inform this Court about the action taken against the petitioner on 07.08.2018.

(vi). The learned counsel for the petitioner is permitted to withdraw his vakalat.

Consequently, connected Miscellaneous Petition is closed.

Post this matter on 07.08.2018 for reporting compliance by the Superintendent of Police, Virudhunagar District through Video Conferencing.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-I)

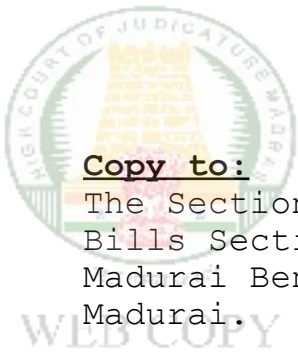
To

1. The Subordinate Judge,
Virudhunagar.
2. The Superintendent of Police,
Virudhunagar District.
3. Selvam,
D/o.Late Karuppasamy,
21, Thirupathi Street,
Virudhunagar Taluk,
Virudhunagar.

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<https://hcservices.ecourts.gov.in/hcservices/>

The Subordinate Judge,
Virudhunagar.

**Copy to:**

The Section Officer,
Bills Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.SENTHIL KUMARIAH, Advocate in SR.No.74719

KSA

DS/SV/SAR-I :25.07.2018: 5P/7C

C.R.P. (MD) No. 1395 of 2018
AND CMP (MD) .NO.5997 of 2018
24.07.2018