

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice C.SARAVANAN

O.S.A.No.82 of 2019
and
C.M.P.No.7742 of 2019

S.Sakthivel .. Appellant

Vs

Abirami Kalyanasundaram .. Respondent

Appeal preferred under Order XXXVI Rule 1 of O.S. Rules r/w
Clause 15 of Letters Patent against the order dated 20.12.2018
made in A.No.9759 of 2018 in O.P.No.860 of 2016.

For Appellant ... Mr.Perumpulavil Radhakrishnan

For Respondent .. Mr.K.Raja

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This appeal is directed against the order of the learned
single Judge dated 20.12.2018 made in A.No.9759 of 2018 in
O.P.No.860 of 2016, by which, the respondent was allowed to take
the minor child on a package foreign tour based upon the
affidavit filed by her that the passport of the minor child will
be handed over back to the appellant.

2.Learned counsel appearing for the appellant would submit
that there is a reasonable apprehension that the respondent may
not come back particularly in the light of the qualification
acquired by her. It is further submitted that in view of the
specific provision contained in The Hindu Minority and
Guardianship Act, 1956, the appellant has to be the guardian
and therefore, until the same is decided, temporary custody of

the minor child shall not be given in favour of the respondent.

3.We do not find any merit in this appeal. On a mere apprehension, we cannot pass an order preventing the mother from taking the child on a package tour along with her, though to a foreign country. Secondly, any provision of law will have to be left when the Court feels that an order is required for the benefit of the child. The status of the parties is not in dispute. We do not find any error in the order passed by the learned single Judge. After all taking the minor child with the mother will certainly be in his interest. The child will be exposed to the foreign environment which would be an educative process as well.

4.In such view of the matter, we are not inclined to interfere with the order of the learned single Judge, particularly, when it has been passed, based on the affidavit filed by the respondent. Learned counsel appearing for the respondent also assures this Court that the affidavit filed would be complied with in letter and spirit. The submission made by the learned counsel appearing for the respondent stands recorded. The passport of the minor child will have to be handed over by the respondent to the appellant within a period of one week after the child as well as the respondent return back.

5.Learned counsel appearing for the appellant submits that the passport is yet to be given in favour of the respondent notwithstanding the fact that the order has been passed three months ago. Learned counsel appearing for the appellant submits that the passport would be handed over to the respondent on or before 05.04.2019. The said statement also stands recorded.

6.With the above observation and direction, the Original Side Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.Perumpulavil Radhakrishnan, Advocate sr.31451
+1cc to Mr.K.Raja, Advocate sr.30407

O.S.A.No.82 of 2019

nr 03/04/2019



WEB COPY