

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Civil Miscellaneous Appeal No.2954 of 2019
and
C.M.P.Nos.15732 & 20389 of 2019

1. Thavasiappan
 2. Selvi
- vs-
- A.Manikandan
- Appellants/Respondents
.... Respondent/Petitioner

PRAYER: Appeal is filed under Section 47 of the Guardian & Wards Act, 1890 r/w Section 8 of the Hindu Minority & Guardianship Act, 1956 to set aside the judgment and decree dated 27.06.2019 made in G.W.O.P.No.101 of 2017 on the file of the learned Principal District Court, Erode by allowing this appeal.

For Appellants : Mr.T.K.S.Gandhi

For Respondent : No Appearance

O R D E R

This Appeal has been filed to set aside the judgment and decree dated 27.06.2019 made in G.W.O.P.No.101 of 2017 on the file of the learned Principal District Court, Erode.

2. The daughter of the appellants herein married the respondent herein on 02.09.2013 and out of their wedlock, a male child by name M.Balakumaran was born on 06.06.2014. The daughter of the Appellants is said to have committed suicide on 05.11.2015, for which, a case was registered against the respondent herein initially under Section 174 Cr.P.C., and thereafter, it was altered into the one of suicide. The said criminal case was taken on file in S.C.No.93 of 2016 by the Sessions Judge / Mahila Court, Erode and after full-fledged trial, the respondent herein was acquitted on 07.10.2016.

3. When the Criminal Court had exonerated the respondent herein from the case, a presumption can be drawn that there is no abetment of suicide and the custody of the child born to the respondent and the daughter of the appellants will have to be handed over to the father / respondent herein, as the mother is no more. It is not in dispute that though the grandparents may

have more love and affection towards their grandchild, the respondent herein, being the father of the child has every right to bring up the child and therefore, the order giving custody of the child to the respondent herein cannot be said to be illegal.

4. The only grievance of the Appellants herein is that their daughter had committed suicide on account of the humiliation meted out at the hands of the respondent herein and it will be highly unsafe for the child to grow at the residence of the respondent.

5. The Court below, while giving custody of the child to the respondent herein, has considered the fact that the appellants herein, who are the respondents in G.W.O.P.No.101 of 2017 have got two more daughters and they also failed to produce any document to show that they have sufficient financial capacity to take care of the grandchild and when the father is alive, it will not be fair and proper to entrust the custody of the child with the grandparents. Therefore, this Court is of the view that the order dated 27.06.2019 made in G.W.O.P.No.101 of 2017 by the Principal District Court, Erode does not warrant any interference by this Court, especially when there is no substantial question of law involved in the issue on hand.

6. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To:

The Principal District Judge,
Erode.

+1cc to Mr.T.K.S.Gandhi, Advocate, S.R.No. 105078

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RR(CO)
GN(13/02/2020)