

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (PD) No. 2981 of 2019

and

C.M.P. No. 19211 of 2019

Silambarasan ... Petitioner

-Vs-

Usha ... Respondent

Prayer : Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A. No. 31 of 2018 in H.M.O.P. No. 24 of 2018 dated 01.07.2019 by the learned Subordinate Judge at Uthangarai, Krishnagiri District.

For Petitioner : Mr. M. Marimuthu

For Respondent : Mr. E. Kannadasan

ORDER

This Civil Revision Petition has been filed against the fair and decretal order passed in I.A. No. 31 of 2018 in H.M.O.P. No. 24 of 2018 made by the learned Subordinate Judge, Uthangarai, Krishnagiri District, by order dated 01.07.2019

2. Before the Court below, I.A. No. 31 of 2018 in H.M.O.P. No. 24 of 2018 was filed by the respondent / wife, for custody of child, on merits, the said application was dismissed by the trial Court, in the impugned order dated 01.07.2019, however, the Court below has permitted the respondent / wife, who is the mother of the child to have the visiting right once in a week to see the child. Aggrieved over the said order, the revision petitioner / husband, who is the father of the child has filed this revision petition.

3. Mr. M. Marimuthu, learned counsel appearing for the petitioner would submit that, the petitioner has assailed the order passed by the trial Court which is impugned herein, granting visiting rights to the mother of the child, on the ground that, the mother i.e., respondent herein, while visiting the child, as directed by the Court below in the impugned order, is not coming alone and she is coming with some third party. Since that is not permitted by the Court, opposing the said move on the part of the respondent / mother, stating that the said conduct is very much prejudicial to the interest of the

child, the petitioner, has chosen to assail that portion of the impugned order giving visiting rights.

4. Mr. E. Kannadasan, learned counsel appearing for the respondent would submit that, though custody of the child asked for by the respondent / wife, that was rejected by the learned Judge and only to visit the child, that too, once in a week, i.e., strictly in accordance with the said order passed by the trial Court, the mother of the child i.e., respondent herein is making use of the visiting right every week to see the child and she is not accompanied by any third party as alleged or claimed by the revision petitioner.

5. Be that as it may, since it is an allegation or counter allegation or denial on the part of the petitioner and the respondent respectively, this Court feels that, it is necessary to observe that the visiting right given by the Court below to the respondent / mother is only for herself to see her child, therefore utilizing the said opportunity, she cannot have any right to take any third party along with her to see the child and in that case as apprehended by the learned counsel for the

petitioner, that will have some prejudice in the mind of the child and therefore, the apprehension reasonably made by the revision petitioner, in the opinion of this Court, has got some force.

6. In that view of the matter, this Civil Revision Petition is disposed of with the following directions:-

"(i) That the respondent / mother of the child alone can visit the child as directed by the Court below in the impugned order, once in a week singly, without accompanying or taking any third party.

(ii) If this condition is violated even in one single occasion, based on which, the issue can be agitated by the petitioner, by filing an appropriate petition in the manner known to law and once it is proved that, despite this order the respondent / mother, in violation of this order, made attempt to see the child with any third party, on that ground, this Court will not hesitate to cancel the visiting right already conferred on her through the impugned order."

7. With these directions, this Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.
No costs.

15.10.2019

Index: Yes / No

Speaking order / Non speaking order

vji / kmm

To

The learned Subordinate Judge,
Uthangarai,
Krishnagiri District.



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R. SURESH KUMAR, J.

vji / kmm



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