



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Thirtieth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice S.RAMATHILAGAM

CMP (MD) No.3157 of 2019

IN

CMA (MD) No.366 of 2018

KAREEM FARTHEEN @ RAGHA MATHULLA, ... PETITIONER/RESPONDENT

Vs

BAJILABANU ... RESPONDENT/APPELLANT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to order Interim custody of minor Mohamed Fawaz to this petitioner for two months of April and May 2019 and thus render justice.

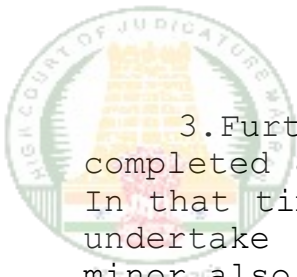
Prayer in CMA (MD) . 366/ 2018 :

To set aside the Judgment and Decree dated 14.03.2018 made in GOP.No.37 of 2015 on the file of Principal District Court, Pudukottai and render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.K.C.RAMALINGAM, Advocate for the petitioner and of MR.V.SITHARANJANDAS, Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed seeking for an order of interim custody of Minor Mohamed Fawaz to the petitioner for the months of April and May 2019.

2.In the affidavit, the petitioner contended that he has filed Guardian O.P.No.37 of 2015 on the file of the District Court, Pudukkottai to appoint him as guardian for his son, Minor Mohamed Fawaz, aged about 13 years. by order dated 17.11.2015 passed in I.A.No.38 of 2015, the learned District Judge, Pudukkottai had granted an order of interim custody of Minor Mohamed Fawaz on 1st and 3rd Saturday of every month till the disposal of the above said G.O.P., Further, the respondent filed the above said C.M.A., as against the appointment of guardian and got an order of interim stay by order dated 13.06.2018 in C.M.P. (MD) No.4804 of 2018 from this Court.



3.Further, the petitioner contended that now, his son has completed 8th std., and he has the vacation from April to May 2019. In that time, the petitioner and his family members are planning to undertake pilgrimage tour to various cities and want to take the minor also. Hence, the present petition.

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4.The respondent vehemently objected to the same by stating that there are number of allegations and by order dated 17.11.2015, the learned District Judge, Pudukkottai had granted an order of interim custody of Minor Mohamed Fawaz only on 1st and 3rd Saturday of every month. The main grievance of the respondent is that the petitioner is a HIV affected person.

5.Heard the learned counsel on either side and on enquiry, the minor boy has stated that he is not willing to go with the petitioner for the summer months and he is very much objecting for his stay along with the petitioner during summer vacation.

6.Considering the facts and circumstances of the case, as the boy is not willing to stay with the petitioner and though the child is a boy, the welfare of the child has to be given priority and accordingly, this Civil Miscellaneous Petition is dismissed. No costs.

sd/-
30/04/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE PRINCIPAL DISTRICT JUDGE,
PUDUKOTTAI.

+1 CC to Mr.V.SITHARANJANDAS, Advocate (SR-7885[I] dated 30/04/2019)

+1 CC to Mr.K.C.RAMALINGAM, Advocate (SR-7894[I] dated 30/04/2019)

ORDER
IN
CMP (MD) No.3157 of 2019
IN
CMA (MD) No.366 of 2018
Date :30/04/2019