



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.11.2019**

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

TR.C.M.P. (MD) No.123 of 2019

and

C.M.P. (MD) No.2720 of 2019

Renga Samudram Suriyanarayanan Apharna ... Petitioner / Petitioner

vs.

Mohan Visveswaran ... Respondent / Respondent

Prayer:- This Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in GWOP.No.6 of 2017 on the file of the Principal District Court, Thoothukudi and transfer the same to any other competent Court away from the District of Thoothukudi.

For Petitioner : Mr.K.A.Ramakrishnan
For Respondent : Mr.M.P.Senthil

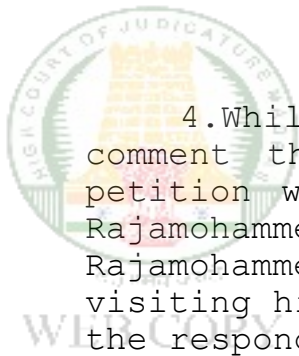
ORDER

The above Transfer Civil Miscellaneous Petition is filed by the petitioner/wife seeking to transfer the petition in GWOP.No.6 of 2017 pending on the file of the Principal District Court, Thoothukudi to the file of the Family Court, Madurai.

2.From the affidavit, it appears that the respondent's child is in the care and custody of the petitioner, whose address has been given as follows:

Renga Samudram Suriyanarayanan Apharna
W/o. Mohan Visvesvaran,
Door.No.5/101F, Subash Nagar 1st Street,
Athimarapatti Road,
Thoothukudi District.

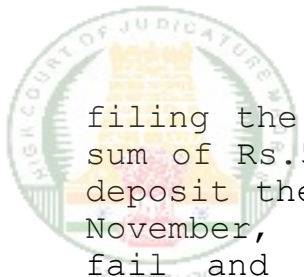
3.As per the Section 9 of the Guardian and Wards Act, 1890, if the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides. From the averments contained in the affidavit, it is clear that the minor child is residing with his mother. Therefore, the Court at Madurai does not have jurisdiction to try the petition. Therefore, it is only the Court at Thoothukudi has jurisdiction to try the above petition. The Tr.C.M.P stands dismissed.



4.While dismissing this petition, this Court has to definitely comment the conduct of the petitioner before this Court. The petition was originally filed on behalf of the petitioner by one Rajamohammed. On 25.09.2019, this Court had directed the said Rajamohammed to verify the possibility of the respondent/husband visiting his child. Since the learned counsel appearing on behalf of the respondent had informed that the respondent was not aware of the school, in which, his son is studying, the counsel was also asked to furnish these details on 30.09.2019. It is also informed to the Court that the minor is a citizen of Singapore.

5.On 30.09.2019, when the matter was called, the counsel once again sought time to get necessary instructions and he submitted that he had conveyed the message to the petitioner and therefore, the matter was adjourned to 15.10.2019. On 15.10.2019, when the matter was taken up for hearing, the petitioner's counsel submitted that he was withdrawing the said petition. At this juncture, this Court could see through the game and therefore, did not permit the counsel to withdraw the petition as it was clear that the petitioner was only attempting to prevent the father from seeing his child and the matter was posted to 05.11.2019. On 05.11.2019, when the matter was taken up for hearing, Mr.Ka.Ramakrishnan, appeared before this Court and stated that he had been instructed to appear on behalf of the petitioner and he was totally unaware about the earlier order of this Court. He would also ensure that the petitioner would positively provide the details requested by this Court and he sought time and therefore, the matter was adjourned to 07.11.2019.

6.On 07.11.2019, the counsel on instructions had submitted that he was ready to produce the child before the Social Welfare Office at Tuticorin on 11.11.2019 at 10.00 am without fail. The respondent/husband had clearly informed that he has travelled all the way from Singapore only for the purpose of visiting his child. Thereafter, the matter was adjourned to 13.11.2019 for reporting compliance. On 13.11.2019, when the matter was taken up for hearing, the learned counsel for the respondent had informed this Court that despite the fact that his client was waiting from 10.00 am., at Social Welfare Office, Tuticorin, the mother did not come along with the child as promised. This despite the fact that the venue had been chosen by the petitioner. On the contrary, the learned counsel for the petitioner informed that the petitioner was hospitalized at Velammal Hospital and when the respondent cross checked as to whether the petitioner has been admitted in Velammal Hospital, he was informed that no such person in the name of the petitioner has been admitted in the said hospital. This Court thereafter directed the learned Additional Government Pleader to ensure that the petitioner and the child are produced before this Court on 14.11.2019 at 04.00 pm., without fail. Thereafter, they were produced before this Court on 14.11.2019 at 04.00 pm., and this Court had heard the matter in Chamber. Since the petitioner had agreed for a compromise the terms of compromise was discussed
<https://hcservices.courts.tn.judic/hcservices/>, the matter was directed to be listed today for



filing the memorandum of compromise. The petitioner had claimed a sum of Rs.50,000/- as interim maintenance, the respondent agreed to deposit the said amount on the 20th of each month starting from 20th November, 2019, directly to the petitioner's bank account without fail and the petitioner has also agreed to transfer the GWOP proceedings to the file of the Sub Court at Madurai.

7.Today, when the matter was called, the petitioner/wife has gone back on the compromise, which was agreed by her last evening ie., on 14.11.2019 in the presence of the Court and the counsels. The conduct of the petitioner has been contumacious right from the day go. Although she would accuse her counsel at Thoothukudi of not informing her about the orders of Court, today she would state that she is reneging from the compromise agreed yesterday because her counsel at Thoothukudi had advised her that the compromise was detrimental to her interests. Though this Court was inclined to take action for contempt against the petition for scuttling orders of this Court, the counsel for the respondent/husband requested this Court to take a lenient view and the petitioner had also apologized to the Court.

8.In the light of the above, while dismissing the Transfer Petition following directions are issued:

The petitioner shall make necessary arrangement permitting the father to visit his child once in a month, failing which, the conduct of the petitioner will have to be viewed seriously by the Court below, namely, Principal District Court, Thoothukudi. That apart, the petitioner shall also make available to the Principal District Court, Thoothukudi, the details of place, where the child is presently studying and the steps she has undertake for the welfare of her minor son.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal District Judge, Thoothukudi.

+1 CC to M/s.S.T.SASIDHARAN TAMILKANI, Advocate (SR-98790[F]
dated 15/11/2019)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-98968[F] dated 18/11/2019)

TR.C.M.P. (MD) No.123 of 2019

15.11.2019

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