



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **11.11.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CRP (MD)No.1496 of 2019

S.Jayasingh

... Petitioner/Petitioner

versus

G.Kalpana

... Respondent /Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the returned endorsement dated 13.08.2019 by the learned Principal District Judge, Thoothukudi, made in G.W.O.P.No. Unnumbered/2019.

For Petitioner : Mr.S.Prasanth

ORDER

This Civil Revision Petition has been filed by the revision petitioner challenging the return of GWOP filed by the revision petitioner before the Court below.

2. The revision petitioner herein filed GWOP before the Principal District Judge, Thoothukudi, to appoint him as guardian of his two children. However, the Court below refused to number GWOP stating that the petition be presented before the proper forum.

3. The learned counsel appearing for the revision petitioner contended that earlier, the respondent herein, who is the wife of the revision petitioner, was employed in Thoothukudi District and the children were also studying in Thoothukudi and due to some misunderstanding, the respondent herein left the petitioner herein in the year 2017 and is now residing at Puducherry along with the children. However, the children were ordinarily residing at Thoothukudi, from the date of their birth till the year 2017 and hence, the present petition is maintainable before the Court below. But, the Court below, without considering the said facts, returned the said petition. Hence, the petitioner is before this Court. In support of his contention, the learned counsel for the revision petitioner placed reliance upon the decision of this Court rendered in a case of ***S.Annapoorni vs. K.Vijay - Application Nos.5445 and 5446 of 2018.***

3. This Court, vide order dated 04.09.2019, ordered notice to the respondent. However, the notice sent to the respondent was returned.

4. The present GWOP has been filed by the petitioner to
<https://hcservices.ecourts.gov.in/hcservices/>



appoint him as guardian of his two children, who are aged about 10 years and 4 years old respectively. The respondent herein left the husband/petitioner herein in the year 2017 and now, she is living along with the children at Puducherry. However, the Court below returned GWOP for want of jurisdiction since the children are residing at Puducherry. According to the revision petitioner, the children were ordinarily residing at Thoothukudi from the date of their birth till the year 2017, therefore, the petition is maintainable before the Court below.

5. In general, GWOP can be filed, where the children are ordinarily residing and with regard to the meaning of "ordinarily residing" can be decided by the Court below based on the evidence adduced by both parties. Therefore, it is not for the Registry of the Court below to return GWOP petition at the threshold. Therefore, this Court directs the Court below to number GWOP and pass appropriate orders thereon, after hearing both parties.

6. With the above direction, the Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Principal District Judge,
Thoothukudi.

Copy to: The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.PRASANTH, Advocate (SR-97399[F] dated 11/11/2019)

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KK/SAR/11.12.2019/2P-4C/