

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

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THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. PD 707 of 2019
and
C.M.P. 4585 of 2019

P.Suganthi

... Petitioner

Versus

J.M.Dev Anand

... Respondent

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the order of learned IV Addl. Principal Judge, Family Court, Chennai in I.A. 5182 of 2018 in O.P. 781 of 2018 dated 02.01.2019.

For Petitioner : Mr.S.Madhusudanan

For Respondent : Mrs.Rita Chandrasekar for
Mrs.Meenakshi

ORDER

This Civil Revision Petition has been filed by the petitioner wife challenging the order passed by the Family Court, Chennai in I.A. 5182 of 2018 in O.P. 781 of 2018 permitting the respondent husband to visit his child twice in a month i.e. on every 2nd and 4th Saturday of the month at Child Care Centre at Family Court, Chennai between 02.00 p.m. and 04.00 p.m.

2. According to the petitioner, she has already filed a petition for divorce in H.M.O.P. 781 of 2008 on the file of Family Court, Salem. The respondent has now filed an application seeking for restitution of conjugal rights in H.M.O.P. 2182 of 2018. Both O.P.s are pending. Pending O.P.s, the respondent husband filed an application seeking for visitation right to visit his minor daughter by name Kaaruinya. In the above application, the Family Court had passed an order permitting the respondent husband to visit his child twice in a month i.e. on every 2nd and 4th Saturday of a month at Child Care Centre at Family Court, Chennai between 02.00 p.m. to 04.00 p.m. Challenging the same, the present Civil Revision Petition has been filed.

3. Mr. S.Madhusudanan, learned counsel appearing for petitioner would submit that, the order has been passed in her absence. The petitioner wife is now residing at Salem, and minor child is a girl, she is in custody of the petitioner. By virtue of the order, the petitioner was compelled to take child from Salem to Chennai, and it is not only in the interest of child, it is also causing serious hardship to the petitioner. That apart, the child is also not interested in seeing her father.

4. Mrs. Rita Chandrasekar, learned counsel appearing for respondent would contend that, it is only a visitation right, the petitioner being a father, has every right to see his child. But, the petitioner wife deliberately not appearing before the court. Considering the above circumstances, the Family Court has rightly passed the order in the application filed by the respondent husband.

5. I have heard and considered the submissions made by learned counsel appearing for petitioner as well as learned counsel appearing for respondent, and perused the records carefully.

6. The petitioner is residing at Salem and the child aged about 6 years, is in her custody. The respondent being a husband, as rightly held by the Trial Court, he is having every right to see his child, and the petitioner cannot object the same without any sufficient reasons. The only objection is that, now the petitioner is residing at Salem, and taking the child from Salem to Chennai would cause unnecessary hardship to the petitioner as well as to the child. On considering the above contentions, taking the child from Salem to Chennai, twice in a month would certainly cause hardship, and studies of child would also be disturbed. In the said circumstances, the order passed by the Family Court is modified as follows :-

The respondent is permitted to visit the child at Salem, on 2nd and 4th Saturday of every month, and have the custody of child from 09.00 a.m. to 04.00 p.m. If the petitioner wants to accompany child, she can alone accompany child. Further, the petitioner is directed to hand over the child to the husband at 09.00 a.m. and after having custody of the child, the respondent husband is directed to hand over the child to the petitioner wife, at 04.00 p.m.

7. With the above modification, this Civil Revision Petition stands disposed of. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

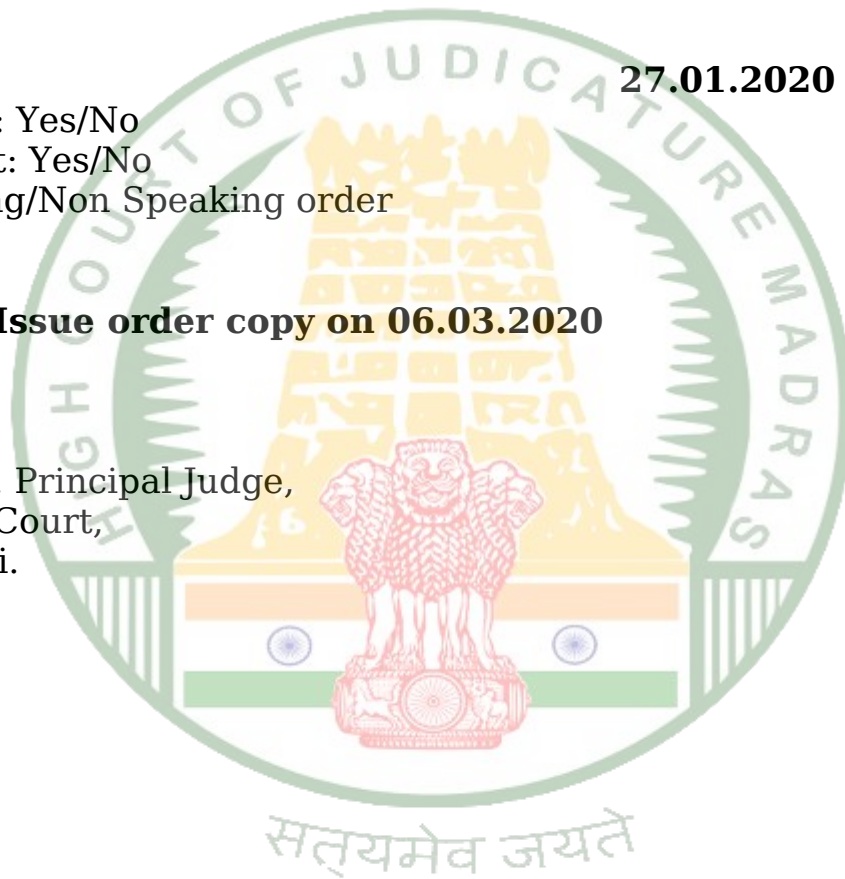
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Index : Yes/No
Internet: Yes/No
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Note : Issue order copy on 06.03.2020

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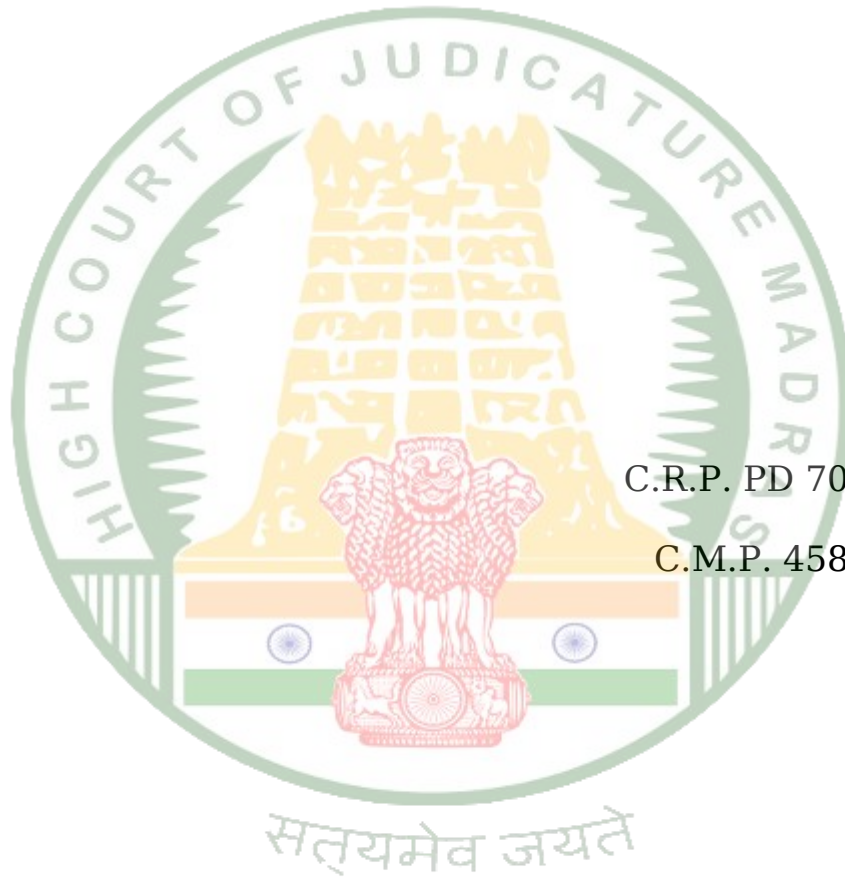
IV Addl. Principal Judge,
Family Court,
Chennai.



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V.BHARATHIDASAN,J.

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