

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[ORDERS RESERVED ON : 11.11.2020]

[ORDERS PRONOUNCED ON : 20.11.2020]

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP (PD).No.1080 of 2020

and

C.M.P.No.5890 of 2020

P.Tamil Selvi

... Petitioner

.. Vs ..

P.Senthil Kumar

... Respondent

PRAYER: Petition filed under Section 227 of Constitution of India, praying against the fair and decree in I.A.No.54 of 2018 in O.P.No.19 of 2015 dated 25.10.2018 on the file of the Subordinate Court, Tambaram, Chennai.

For Petitioner

: Mr.C.V.Kumar

For Respondent

: Mr.S.Kishore Kumar

ORDER

The respondent/wife is the revision petitioner herein.

2. The respondent/husband herein has filed H.M.OP.No.19 of 2015 before the Sub-Court, Tambaram for divorce on the ground of cruelty.

3. The wife has not filed counter statement sofar.

4. Pending H.M.O.P, the husband filed I.A.No.54 of 2018 seeking visitation rights in respect of the minor child aged about 7 in the year 2018.

5. As the wife has not contested the application, taking into consideration the love of the father to the minor child aged 7 visitation rights for the father was granted that on all sundays at 10 O'clock to 5 O'clock was granted to the husband. This order was passed on 25.10.2018.

6. It appears that the wife was also filed M.C.No.9 of 2016 before the learned Judicial Magistrate, Alandur for maintenance and for litigation expenses. While, the wife has shown interested in conducting the maintenance case alone, she has no any interest contesting the I.A filed by the husband for visitation rights. She has remained ex-parte

uncontested I.A resulted in passing of the order in I.A, as stated above, on 25.10.2018. Now the wife had presented the C.R.P under Article 227 of Constitution of India. Challenging the order of grant of visitation rights granted to the husband in I.A.No.54/2018.

7. Heard both sides.

8. The learned counsel for the petitioner/wife contended that no amount has paid under the maintenance case.

9. The learned counsel for the respondent/husband contended that though the order of the visitation rights was issued in the year 2018. Sofar it was not complied with.

10. Taking into consideration that even though the H.M.O.P was filed in the year 2015, the case could not be proceeded for want of filing counter statement filed by the wife. However the wife chosen to file maintenance in M.C.No.09 of 2016 which is posted 'for arguments'. Now that the order in I.A.No.54/18 wherein the husband was granted visitation rights to see the minor child aged about 7 in the year 2018 on every sunday between 10.00 a.m to 5.00 p.m.

11. After going through the records, I find there is no irregularity in passing a such order. The paramount consideration is the welfare of the child and also known love of the father and hence I do not find any reason to interfere with the order passed by the trial Court. Since the file H.M.O.P pending for the last 5 years without progress for non filing of the written statement. The trial Court is hereby required to proceed with the main H.M.O.P in the default of filing the counter statement within four weeks from the date of receipt of a copy of this order. If the wife has not filed the counter within above stated period, the trial Court is at liberty to proceed with the main H.M.O.P in accordance with law.

12. With these observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected C.M.P is closed.

20.11.2020

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Speaking Order: Yes/No

Internet: Yes/No

To

The Subordinate Court, Tambaram, Chennai.

CRP(PD).No.1080 of 2020

RMT.TEEKAA RAMAN,J.,

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Order in
C.R.P.(PD)No.1080 of 2020 and
C.M.P.No.5890 of 2020

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