



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CMA (MD) No.172 of 2020

and

C.M.P. (MD) .No.2925 of 2020

WEB COPY

Thandauthapani

.. Appellant/Petitioner

Vs.

1.Minor.Deva Prabha

2.Minor Dehashini

(Represented through their
Guardian/Grand Parents)

3.Palaniammal

4.Alagu

...Respondents/Respondents

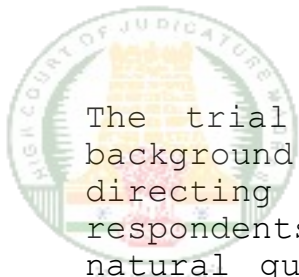
Prayer:Civil Miscellaneous Appeal filed under Section 47 of the Guardian and Wards Act, 1890, to set aside the judgment and decree dated 29.04.2019 made in G.O.P.No.5 of 2018 passed by the Principal District Judge, Pudukottai.

For Appellant : Mr.A.Jeyam Subramanian

JUDGMENT

This appeal is filed against the order dated 29.04.2019 passed in G.O.P.No.5 of 2018 by the Principal District Judge, Pudukottai. The appellant is the father of the respondents 1 and 2. The respondents 3 and 4 are the grandparents of respondents 1 and 2.

2.The respondents 3 and 4 are the husband and wife and they had one daughter viz., Rajakumari. The said Rajakumari was given marriage to the appellant on 27.05.2013 and out of their wedlock, she begotten two minor children in the year 2014 and 2016. From the date of marriage, the appellant tortured his wife for demanding more dowry. On 08.09.2017, she died due to harassment made by the appellant and the respondents 3 and 4 gave a complaint. Pursuant to which, a case has been registered in Crime No.107 of 2017 against the appellant and the same is pending. Since the appellant is interested to get second marriage, he is not interested to brought up his minor children, who born through the first wife. At the time of birth of the two children, the appellant was in abroad. The appellant went to abroad only for his job. Due to the pendency of the criminal trial, the appellant did not go to abroad and after completing the trial, he went to abroad. Now, the children are in the custody of the respondents 3 and 4, who are none other than the maternal grandparents of the children, has filed a petition in G.O.P.No.5 of 2018 before the Principal District Judge, Pudukkottai.



The trial Court, considering the entire materials and criminal background of the petitioner, has allowed the said petition directing the appellant to hand over the minor children to the respondents 3 and 4. However, since the appellant is the father and natural guardian of the respondents 1 and 2, the trial Court has given visitation rights to him. Challenging the said order, the appellant is before this Court.

3. Heard the learned counsel appearing for the appellant and perused the materials available on record.

4. Admittedly, the relationship of the parties are not in dispute and a case has been registered against the appellant in Crime No.107 of 2017 is also not disputed. The appellant is facing the criminal trial, due to the suicide committed by his wife is also not in dispute and now the children are in the custody of the respondents 3 and 4, who are the maternal grandparents, is not in dispute and the appellant was working in abroad is also not in dispute. Further, the age of the appellant is 38 years and after the death of his wife, the appellant proposed to conduct second marriage. Therefore, the trial Court taking into consideration of the interest of the minors, has ordered the custody of the children with the maternal grandparents, who are the respondents 3 and 4 herein and hence, this Court does not find any perversity in the order of the trial Court. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Principal District Judge,
Pudukottai.

2. The VR Section, (2 COPIES)
Record Clerk,
Madurai Bench of Madras High Court,
Madurai.

CMA (MD) No.172 of 2020

SMA/19/05/2020/2P/4C