

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.03.2021
CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
C.M.A.No.2462 of 2013
and
M.P.No.1 of 2013

Kasilingam

..Petitioner/Appellant

Vs.

Elumalai

..Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 47 of the Guardian and Wards Act, against the order and decree dated 11.01.2013 made in G.O.P.No.66 of 2008 on the file of I Additional District Judge, Salem.

For Appellant : Mr.D.Ravichander

For Respondent : M/s.A.M.Esakkiappan

J U D G M E N T

The Fair and Decreetal order dated 11.01.2013 passed in G.O.P.No.66 of 2008 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant filed a petition in G.O.P.No.66 of 2008 under Section 25 of the Guardian and Wards Act, to direct the respondent in favour to the petitioner. The said petition filed by the appellant was dismissed by the I Additional District Court, Salem. The appellant states that he is the father of the minor Wards namely Bhuvaneswari and Banumathi. The petitioner's marriage was solemnized with minors mother viz., Dhanalakshmi on 08.06.2000. After the marriage, the petitioner's wife frequently deserted the appellant/husband. However, the fact remains that there was no cordial relationship between the minors' parents. Under those circumstances, the respondent/Grand father has maintained the minor children and his daughter/wife of the appellant.

3. This apart, the appellant/husband filed a petition for divorce, which was also pending during the relevant point of time. Considering all the facts and circumstances, the trial Court dismissed the petition filed by the appellant, seeking

custody of the minors namely Bhuvaneswari and Banumathi.

4. This Court is of the opinion that the minors were girl children and their interest is to be protected by the Courts. All along from the year 2006, when the petition was filed by the appellant, the minor children are in the custody of the respondent/Grand father. The Grand father is providing education and now the 1st minor namely Ms.Bhuvaneswari attained the age of majority and the 2nd minor namely Banumathi is studying XII standard. The Date of Birth of the minors are 03.10.2001 and 28.11.2003 respectively. In view of the fact that the first minor Bhuvaneswari attained the age of majority, she is at liberty to decide about her future life. As far as the second minor Banumathi is concerned, she is already aged about 17 years and under these circumstances, this Court is of the opinion that her interest as well as the education is to be protected. All along, she is living with the respondent/Grand father and after at this length of time, this Court is not inclined to reconsider the findings of the order passed by the trial Court, which is in consonance with the principles.

5. In view of the facts and circumstances, the Fair and Decreeal order dated 11.01.2013 passed in G.O.P.No.66 of 2008 stands confirmed and the Civil Miscellaneous Appeal in C.M.A.No.2462 of 2013 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To
The I Additional District Judge,
Salem.

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C.M.A.No.2462 of 2013

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