

Application No.824 of 2021  
in  
O.P.No.194 of 2021

V.PARTHIBAN, J

The applicant herein is the petitioner in O.P.No.194 of 2021, which is filed by him seeking to hand over the custody of the minor child R.Oviya, aged 14 years, born on 09.06.2006 to the petitioner being the father. Pending the said O.P., the applicant has filed the present application seeking to grant of interim custody of the said minor child to him.

2. It is the case of the applicant/father that he is a Consultant Psychiatrist working in Schizophrenia Research Foundation (SCARF), Chennai. He married the respondent who had completed Bachelor Degree Course in Physiotherapy. Out of their wed-lock, the minor girl child Oviya was born on 09.06.2006. There was dispute between them regarding the standard of education of the minor child and also in respect of the flat owned by the petitioner. Since the child could not resume going to School and as the respondent did not respond, the petitioner issued legal notice

dated 28.01.2006 calling upon the respondent to join the petitioner along with the child to enable the child to continue her education in Chennai.

3. It is the further case of the petitioner that he has been taking care of the financial and other needs of the respondent as well as the minor child. Ultimately, the respondent shifted from the petitioner's flat at Mandira Apartments in T.Nagar, Chennai. Unable to bear the mental agony caused by the respondent, the petitioner filed O.P.No.4868 of 2019 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Principal Family Court, Chennai, for dissolution of the marriage held with the respondent on 22.10.2001. There were mediation proceedings between the parties from 09.01.2020, which is yet to be concluded. During the pandemic lock-down, the respondent took the child to her native village where they are staying till date. His request to bring the child to Chennai has not been heeded to. The child has not been attending the on-line classes while in the custody of the respondent. The petitioner received a message from the School Principal stating that the child was poor in attending on-line classes and that the regular off-line classes will begin from 15.02.2021. In spite of the petitioner

calling the respondent, she has not answered his calls and the petitioner's counsel before the Family Court also tried to communicate the above fact to the respondent, but of no avail. The School Principal and the Class Teacher informed the petitioner on 15.02.2021 about the factum of the respondent not coming to Chennai. The respondent's attitude towards the minor child, her education and her well-being, is far from satisfactory and if the custody of the minor daughter continues with the respondent, it will ultimately affect the robust growth of the child.

4. It is the grievance of the petitioner that the respondent had retained the minor child and blocked her access to the petitioner. The petitioner has not seen the child after 21.03.2020 and the petitioner's request to the respondent during mediation proceedings to bring the minor child to Chennai to enable her to continue her studies, had been declined by her. The respondent was not able to take care of the physical, emotional and intellectual needs of the minor child and hence, the petitioner has been suffering emotional deprivation and the said act is against the long term interest of the minor child. Hence, the petitioner requests that it is necessary

to bring the child to Chennai to attend her Clause IX examination which was scheduled in the first week in March 2021. The respondent was ordinarily residing in Chennai, i.e. within the jurisdiction of this Court. Hence, the petitioner is seeking interim custody of the minor child.

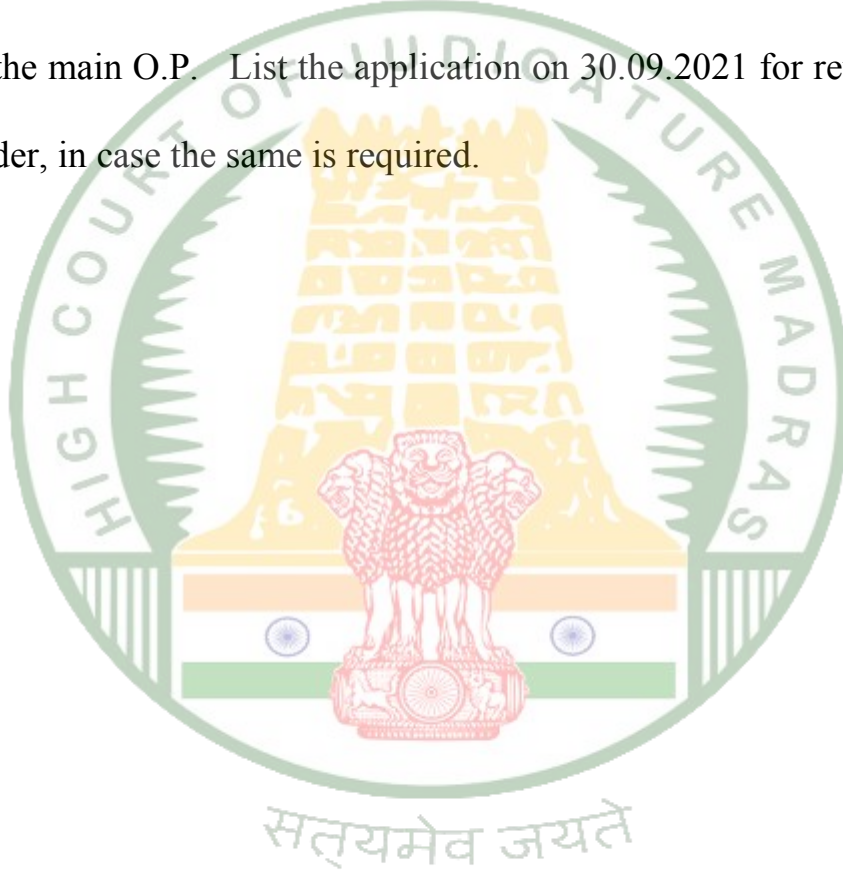
5. Heard the learned counsel for the parties and perused the materials available on record.

6. This Court has been repeatedly asking the learned counsel for the respondent (wife) to respond to the present application filed for interim custody of the said minor child by the father (petitioner), but the learned counsel had been seeking mere adjournment, without any instructions from the respondent. As there was no response from the respondent/mother, this Court is constrained to go through the contents of the affidavit filed in support of the present application and other records and on being convinced, is inclined to grant interim custody of the minor child R.Oviya to the applicant/father.

7. Accordingly, this application stands allowed. The respondent/mother shall hand over the custody of the said minor child as an interim measure to the applicant/father and further orders are to be passed on review of the outcome of the present arrangement or until a decision is taken in the main O.P. List the application on 30.09.2021 for review of the above order, in case the same is required.

03.08.2021

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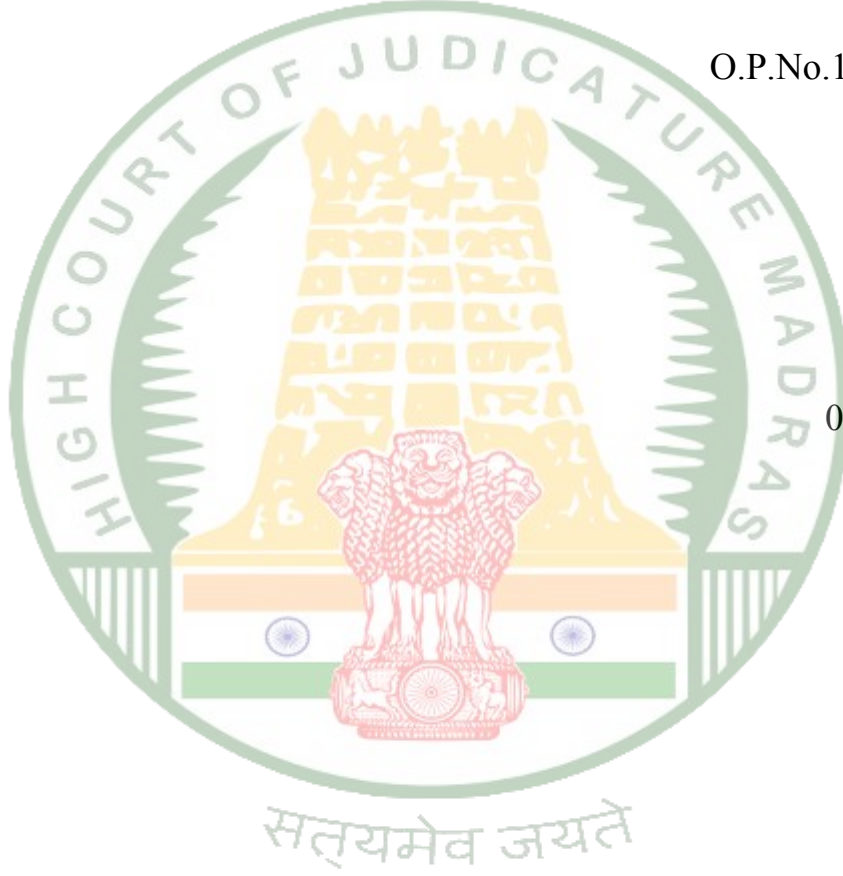
Order dated 03.08.2021 in  
Appln.No.824 of 2021 in O.P.No.194 of 2021

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