



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.755 of 2019
and
C.M.P.No.4970 of 2019

Aarti Bijlani

...Petitioner

Versus

Ramachand Asrani Vikram

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order dated 23.01.2018 passed in I.A.No.5053 of 2018 in O.P.No.2545 of 2018, by the No.II Additional Principal Judge, Family Court, Chennai.

For Petitioner : Mr.M.K.Kabir, Senior Counsel
for Mr.Jayaraman

For Respondent : No appearance

ORDER

The petitioner is challenging the order passed by the learned No.II Additional Principal Judge, Family Court, Chennai, in I.A.No.5053 of 2018 in O.P.No.2545 of 2018, dated 23.01.2018.

2. Heard Mr.M.K.Rabir, learned Senior Counsel for Mr.Jayaraman, learned counsel for the petitioner and there is no representation on behalf of the respondent.

3. The revision petitioner herein is the wife. She filed H.M.O.P.No.1538 of 2018 against the respondent before the Family Court No.II, Chennai for the relief of divorce, which was contested by the wife on various grounds. During the pendency of HMOP, she filed I.A.No.5053 of 2018, seeking visitation right under Section 12 of the Guardian Wards Act 1890 r/w Section 151 of C.P.C. of her minor daughter namely Shaanvi Asrani. The said application was also contested by her husband / respondent. On



hearing both sides, the trial Court allowed the application with the following lines by giving visitation rights.

"In the result, this petition is partly allowed thereby the petitioner / wife is entitled to have visitation right of the minor female daughter Shaanvi Asrani, aged about 13 years on every Sunday at the respondent / husband residence. The respondent is hereby ordered to co-operate for the said arrangement. Any deviation will be seriously viewed."

Aggrieved by the said order, the mother of the child has preferred this revision.

4. At the time of arguments, the learned counsel for the petitioner submitted that as a minor girl, she needs mother love and care but, without considering this aspect, the trial Judge gave visitation rights only on Sunday, which is not sufficient to look her minor daughter. Therefore, she sought at least three days including week end.

5. On a perusal of the records, it reveals that the petitioner and respondent are close relatives and they have separated, but the houses are very nearby each other. As per the contention of the petitioner, she has not looked her minor girl, and she is residing at her father house. But by giving falls allegation, her husband filed the divorce application. But she is always willing for re-union and she also filed application for Restitution of Conjugal Rights.

6. From the facts, it reveals that they have only one daughter and she is also aged about now 15-16 years. Admittedly there is no elder member of the respondent / father. So the minor girl requires love and care both father and mother. As a mother, she is entitled to love her minor child eventhough there is dispute between her and her husband, the child is also entitled to have love and affection of both father and mother. Therefore if the child denied the mother'S love, the girl child would affect psychologically in future. Considering the paramount welfare of the child, this Court granted visitation rights for three days on every Friday, Saturday and Sunday.

7. The petitioner is entitled to see her child from Friday evening to Sunday evening and the respondent / husband is directed to give co-operation and should not cause any annoyance at the time of taking and handing over the child. The order passed by the learned trial Judge in I.A.No.5053 of 2018 in O.P.No.2545 of 2018, dated 23.01.2018 is modified.



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8. Accordingly, the Civil Revision Petition is allowed. Consequently, connected Miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar (CS-VIII)

//True Copy//

Sub-Assistant Registrar

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To

1.The Additional Principal Judge No.II,
Family Court, Chennai.

2.The Section Officer,
V.R.Section, High Court of Madras.

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and
C.M.P.No.4970 of 2019

SS (CO)
SP(13/12/2021)