

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.2801 of 2016
and C.M.P.No.14254 of 2016

C.Leelavathi

... Petitioner

Vs.

M.Gopal

... Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.972 of 2015 in G.W.O.P.No.1154 of 2014 on the file of the I Additional Principal Family Court, Coimbatore dated 13.05.2016.

For Petitioner : Mr.S.B.Viswanathan

For Respondent : No appearance

ORDER

This revision petition is arising out of fair and decreetal order dated 13.05.2016 passed by the learned I Additional Principal Family Judge, Coimbatore in I.A.No.972 of 2015 in G.W.O.P.No.1154 of 2014, thereby allowing the petition filed by the respondent for interim custody of his

grand daughter viz., Pooja Sree once in a month on every last Sunday of every month between 9.00 a.m. and 7.00 p.m.

2. The respondent is the father-in-law of the petitioner herein and he filed a petition under Guardianship and Ward Act for custody of his grand daughter viz., Pooja Sree as against the petitioner/mother. While pending the main petition, the respondent filed an application for interim custody of his grand daughter and the same was allowed by the Court below. Aggrieved by the same, the petitioner/mother filed this revision petition.

3. The petitioner got married with the son of the respondent herein and due to their wed lock, they gave birth to a female child on 05.04.2004 by named Pooja Sree. Thereafter, due to an accident, the husband of the petitioner died and as such the petitioner got second marriage with one Gopalakrishnan on 10.09.2014. Immediately, the respondent who is the father-in-law of the petitioner filed this petition for custody of the minor child born through his son. He also filed petition for

interim custody of his grand daughter, in which, the minor girl was examined as witness.

4. On perusal of evidence given by the said Pooja Sree aged about 12 years, she categorically deposed that she refused to go with the respondent. She further deposed that if she goes there, she will be tortured and it cannot be possible for him to look after her in proper manner. Even then, the trial Court allowed the petition and directed the petitioner/mother to give custody of the minor child viz., Pooja Shree once in a month on every last Sunday of every month between 9.00 am and 7.00 p.m.

5. The learned counsel appearing for the petitioner/mother would submit that now the girl is aged about 16 years and she is studying 11th standard. No one is appeared on behalf of the respondent.

6. Considering the above facts, this Court finds that the order passed by the trial Court is perverse and it is liable to be set aside. Accordingly, the order dated 13.05.2016 passed by the learned I Additional

Principal Family Judge, Coimbatore in I.A.No.972 of 2015 in G.W.O.P.No.1154 of 2014, is hereby set aside. However, if the minor girl viz., Pooja Shree aged about 16 years is willing to visit the respondent's house, she may be permitted to visit the respondent's house.

7. Accordingly, this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

07.01.2021

Internet : Yes

Index : Yes/No

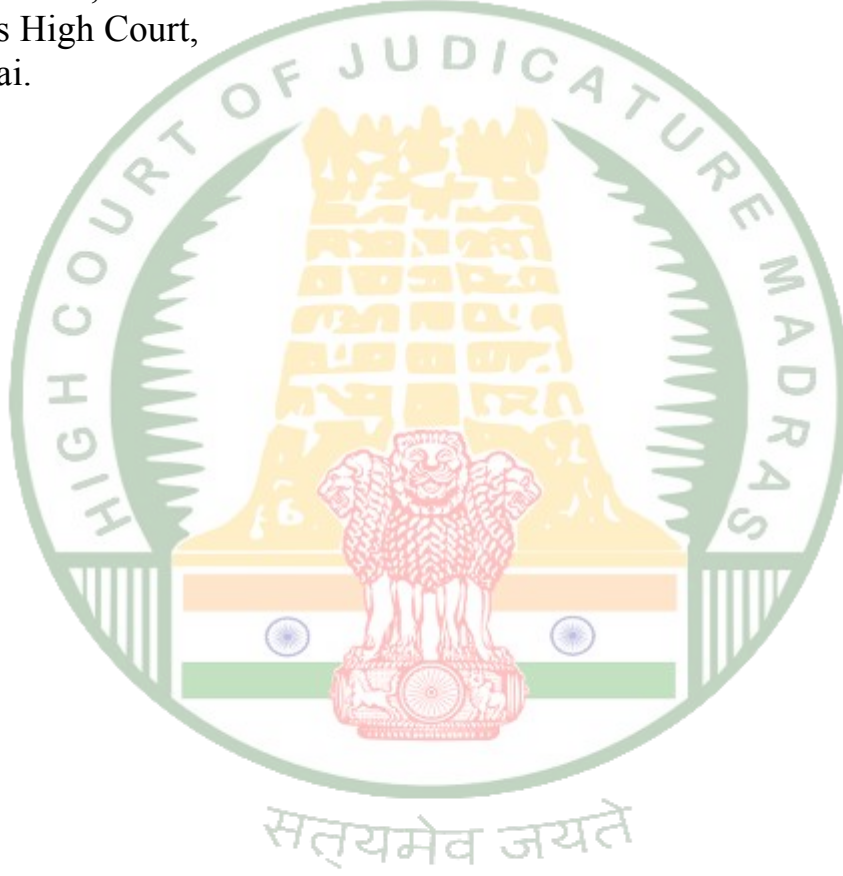
Speaking order/Non-speaking order

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To

1. The I Additional Principal Family Judge,
Coimbatore
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

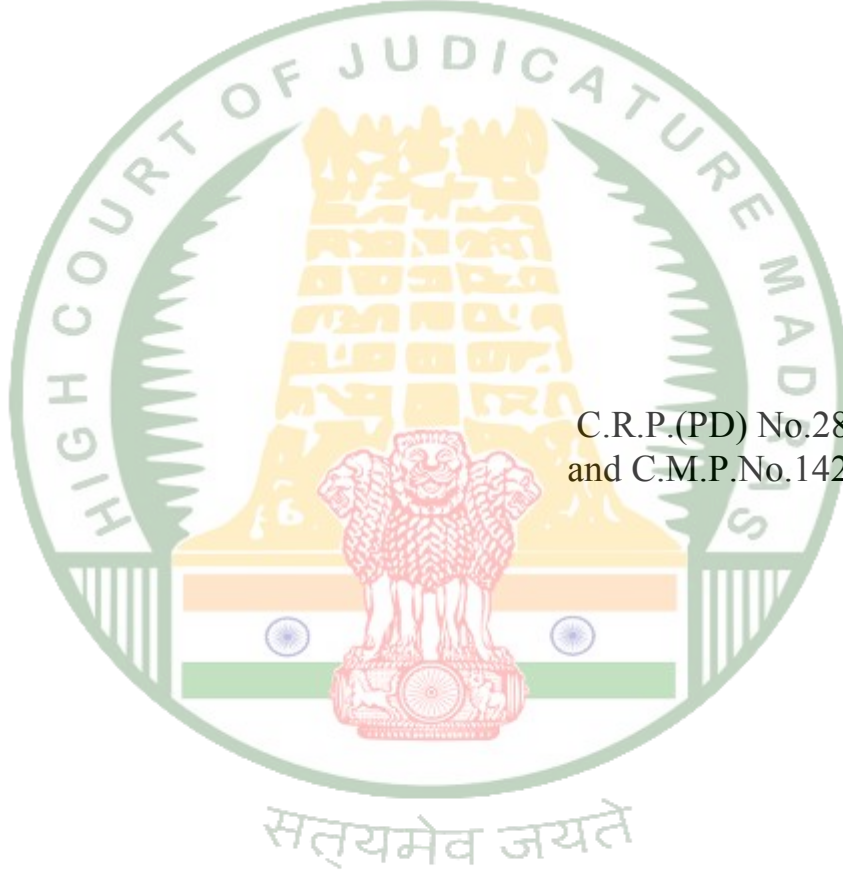


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G.K.ILANTHIRAIYAN, J.

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