

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P (PD) No.2737 of 2018

and

C.M.P.No.16074 of 2018

G.Ashok Kumar ... Petitioner

Vs.

V.Nallathambi ... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to to set aside the fair and decretal order passed by the IV Additional Judge, Famil Court at Chennai dated 04.08.2018 made in I.A.No.3329 of 2018 in O.P.No.2078 of 2018 and allow the Civil Revision Petition.

For Petitioner : Mr.Ravichandran Sundaresan

For Respondent : M/s.S.T.P.Kulimozhi

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.3329 of 2018 in O.P.No.2078 of 2018 dated 04.08.2018 on the file of the learned IV Additional Judge, Family Court, Chennai, thereby dismissing the petition seeking interim custody of the minor children.

2. The petitioner is the father and the respondent is the maternal grandfather of the minor children. The petitioner got married with one Vanithamani on 21.01.2007. Out of their wedlock, they gave birth to a female child and male child. Due to quarrel between them, his wife committed suicide on 05.02.2018. The children were brought to the deceased wife's house at Trichy for performing last rites of the deceased. But the petitioner was not allowed by the respondent and his relatives to perform his last rites to his wife and the minor children were under the custody of the respondent herein. Therefore, the petitioner filed a petition under Section 12 of the Guardian and Wards Act seeking custody of his minor children. While pending the main petition, he filed a petition seeking interim custody of the minor children, since they were studying in the Kendriya Vidyalaya School, CLRI Campus, Adyar, Chennai. However, the Court below dismissed the petition seeking interim custody of the minor children for the reason that the children are not willing to go with the petitioner, since they have got admitted in a Matriculation School at Trichy and they are comfortable with their maternal grandfather. While the present Civil Revision Petition came up for admission, this Court passed detailed order dated 12.10.2018, which reads as follows:-

“14. I am of the view that in order to ascertain

as to whether the children would be comfortable in staying with their father or not, it would be appropriate to direct the respondent herein to hand over the custody of the children for the present and during which point of time, the relationship between the children and their father could be closely monitored. Since the petitioner herein assures that the children would also be allowed to continue their studies in the same school and that their admissions are still open, it would only be appropriate to direct the petitioner to admit the children in the same school, namely Kendriya Vidyalaya School, CLRI Campus, Adyar, Chennai to enable them to pursue their education

15. Since, the above arrangement is only being done by way of an interim measure, this Court intends to re-analyse the status of the relationship between the petitioner and their children after they reconcile with him.

16. In the light of the above observations, there shall be a direction to the respondent herein to temporarily hand over custody of the minor children namely A.Dhaksha, aged 10 years and Mithilesh, aged 6 years to the petitioner herein within a period of one week from today.”

3. Thereafter, this Court passed further order dated 01.11.2018, which reads as follows:-

“4. This Court is also of the view that since the interim custody of the minor children was handed over on 15.10.2018, it might require some more time for the father and children to bond and strengthen their relationship and therefore it would be appropriate to continue monitoring the children.”

4. Now, the learned counsel for the petitioner submitted that as directed by this Court, the interim custody of the minor children were handed over to the petitioner on 15.10.2018 and they are happily living with the petitioner and they are studying in their respective class at Kendriya Vidyalaya School, CLRI Campus, Adyar, Chennai. So far, no complaints have been received from the respondent against the petitioner in respect of the any other untoward happening against the minor children by the petitioner.

5. Considering the above facts and circumstances, this Civil Revision Petition is allowed and the order passed in I.A.No.3329 of 2018

in O.P.No.2078 of 2018 is hereby set aside. However, the Court below is directed to consider the above facts and circumstances and dispose of the petition in O.P.No.2078 of 2018, within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

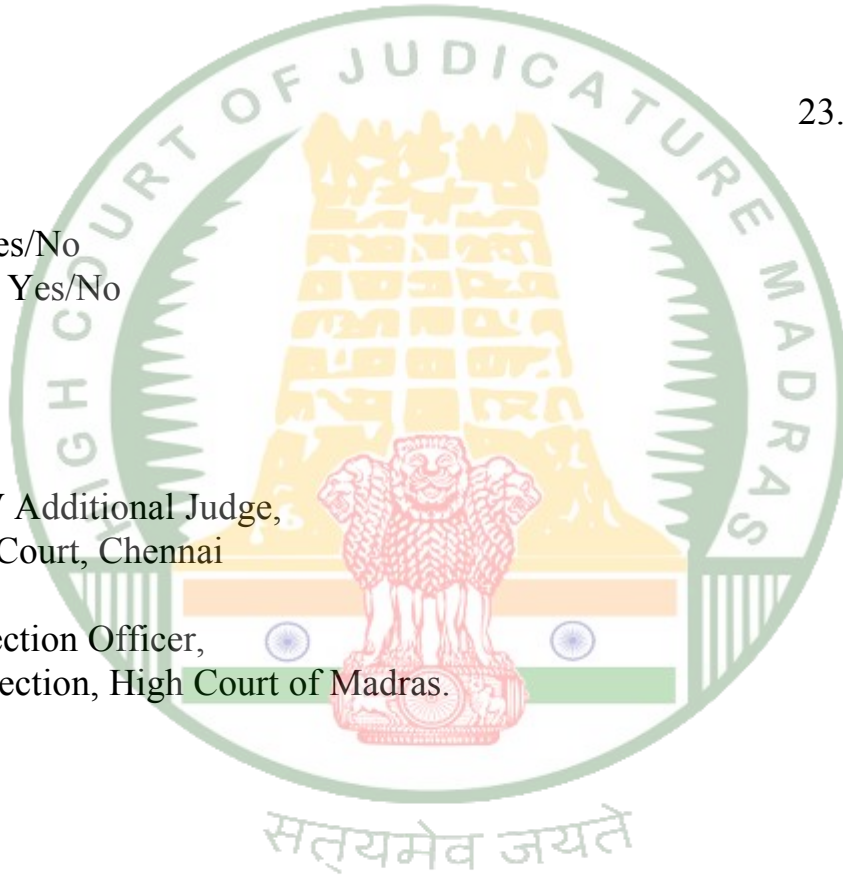
23.06.2021

kv

Index : Yes/No
Internet : Yes/No

To

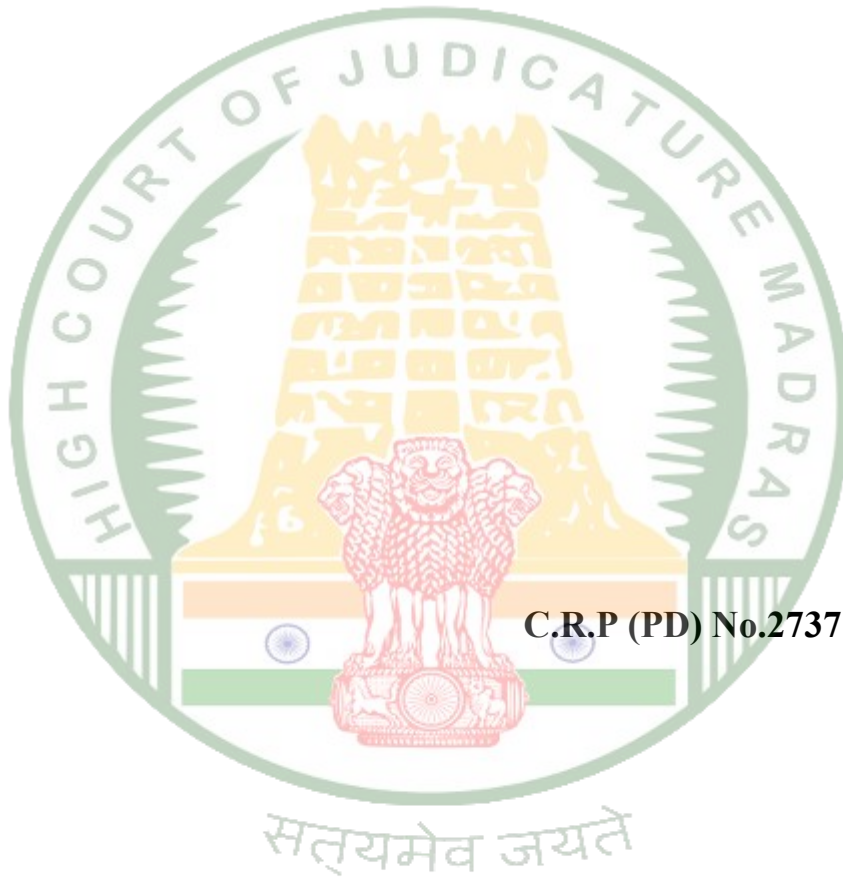
1. The IV Additional Judge,
Fam. Court, Chennai
2. The Section Officer,
V.R. Section, High Court of Madras.



WEB COPY

G.K.ILANTHIRAIYAN,J.

kv



C.R.P (PD) No.2737 of 2018

WEB COPY

23.06.2021



WEB COPY