

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2412 of 2021
and
C.M.P.No.18354 of 2021

M.Gopal

.. Petitioner

Vs.

M.Vasugi

..Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the ad interim order dated 12.10.2021 in C.M.P.No.1086 of 2021 in D.V.C.No.52 of 2021 on the file of the Additional Mahila Court (FAC)/ Judicial Magistrate No.IV, Salem.

For Petitioner : Mr.K.Selvaraj

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ORDER

This Revision is directed against the order of the learned Special Magistrate under the Domestic Violence Act, made in exercise of power conferred on him under Section 21 of the said Act, granting custody of female child aged 3 years to the mother.

2. The husband, who is the petitioner herein, would claim that the order came to be passed without notice to him therefore, the Revision under Article 227 of the Constitution of India would lie.

3. Section 21 of the Act empowers the Magistrate to grant custody. Section 29 of the said Act makes order of the Magistrate appealable before the Court of Sessions. It is open to the petitioner to file an appeal against the order passed by the Magistrate, which is now challenged in this Revision. Article 227 being a Constitutional remedy, I do not think that the same could be invoked when a remedy by way of an appeal is made available under the statute.

4. Hence, this Civil Revision Petition is dismissed reserving the liberty to the petitioner to file an appeal under Section 29 of the Act. No costs. Consequently the connected miscellaneous petition is closed.

08.11.2021

dsa

Index:No

Internet:Yes

Speaking order/ Non-Speaking order

Note:-

The Registry is directed return the copy of the original order today itself, since the last date for filing appeal would be 11.11.2021.

To

The Additional Mahila Judge (FAC)/
Judicial Magistrate No.IV, Salem.

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R.SUBRAMANIAN, J.

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