

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.4280 of 2019
and
CMP No. 24194 of 2019

M.Sureshkumar

... Appellant

Versus

R. Lalitha

...Respondent

Civil Miscellaneous Appeal filed under Section 47 of Guardians and Wards Act, 1890 against the judgment and decree dated 04.09.2019 passed in G.O.P.No.218 of 2016 by the II Additional District and Sessions Court, Salem.

For Appellant : Mr.Balasubramaniam
For Respondent : Mr.R. Subramanian

JUDGMENT

(Heard video conference)

This appeal has been filed challenging the order dated 04.09.2019 passed by the learned II Additional District and Sessions Judge, Salem in GOP No.218 of 2016 rejecting the appellant's petition seeking guardianship and custody of the minor child Kamalesh Kumar.

2. Heard Mr.K.Balasubramaniam, learned counsel for the appellant and Mr.R.Subramanian, learned counsel for the respondent.

3. As seen from the Typed set of papers filed along with this appeal, there seems to be a matrimonial dispute between the appellant and the respondent. Earlier, the appellant was granted visitation rights for seeing his minor son Kamalesh Kumar by the Trial Court. But under the impugned order, since the visitation rights granted in favour of the petitioner has not been continued, the learned counsel for the appellant submits on instructions, that the appellant is now aggrieved by

the non grant of visitation rights in his favour and is not aggrieved by the rejection of the petition filed by the appellant seeking guardianship and custody of the minor son Kamalesh Kumar. He would submit on instructions, the appellant is satisfied, if the visitation rights are alone granted to him and he is not going to seek custody of the minor child before the Trial Court. For this submission, the learned counsel for the respondent has not raised any serious objection. But however, he would submit that the appellant will have to work out his remedies before the Trial Court by filing appropriate application.

4. After recording the submissions made by the respective learned counsels as there is no merit in this appeal with regard to the declaration of the petitioner as the guardian for the minor child, this Civil Miscellaneous Appeal shall stand dismissed. However, liberty is granted to the appellant to file an appropriate application before the Court below seeking visitation rights for spending time with his minor son Kamalesh Kumar and the Trial Court shall consider the said application as and when it is filed on merits and in accordance with law after affording sufficient opportunity to the respondent to raise all objections available to her under law and pass orders thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi2

To

The II Additional District and Sessions Judge,
Salem.

Copy to:

The Section Officer,
V.R. Section, High Court of Madras,
Chennai - 104.

+1CC to Mr.Balasubramaniam, Advocate, Sr.No.46330

+1CC to Mr.R.Subramanian, Advocate, Sr.No.46626

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RLD (CO)

K.RK. (08.11.2021)