



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

CORAM

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P (MD) No. 1589 of 2021
and CMP (MD) No.8669 of 2021

WEB COPY

Yamuna

... Petitioner

Vs.

Kalyanakumar

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 16.09.2021 passed in I.A. No.1 of 2021 in O.S.No. 223 of 2019 on the file of the learned Principal District Judge, Tiruchirapalli.

For Petitioner : Mr.S. Ponsenthil Kumaran

O R D E R

The civil Revision petition has been filed to set aside the fair and decreetal order dated 16.09.2021 passed in I.A. No.1 of 2021 in O.S.No. 223 of 2019 on the file of the learned Principal District Judge, Tiruchirapalli.

2.The learned counsel for the petitioner would submit that the respondent had filed GWOP No. 223 of 2019 on the file of the Principal District Judge, Trichy seeking temporary custody of his son Y.K.Sendhan aged about two years. The respondent is a chronic kidney patient and he had suppressed his illness and married the petitioner, thereby the petitioner had filed a petition to send for the discharge summary and case sheet of the respondent to prove that he was chronic kidney patient. However the Trial Court with a prejudiced and pre-determined mind had dismissed the petition to the detriment of the petitioner , thereby the present petition has been filed.

3. Heard the learned counsel for the petitioner and perused the material available on record.

4. The respondent/husband had filed a petition in GWOP No. 223 of 2019 to permit his son to stay with him during week ends, Saturday and Sundays and during functions. In as much as to say the petition has been filed seeking for temporary custody of the child. In this case as per the records, PW.1 has been examined in chief on 13.08.2021 and on that day the petitioner was not ready for cross examination, thereby the case had been adjourned to 24.08.2021 for cross examination. On that day, instead of cross examining the respondent, the revision petitioner had filed the memo under Order 11 Rule 16 of the Code of Civil Procedure seeking the



husband to produce three documents. The counsel for the respondent had made an endorsement stating that those documents were not available with him and thereafter the revision petitioner/wife had filed the petition under Section 76 of the Code of Civil Procedure to send for those documents. The Trial Court after careful consideration found that the materials sought for by the revision petitioner/wife were not relevant for considering the issue in the case that whether the father can be permitted to stay with his son and whether the father can be permitted to meet his son and that it was not an issue in the case with regard to the medical treatment of the father. Further the Trial Court has also held that it is not the case of the respondent that the father is having any contagious disease so as to deny the custody of the child, thereby the Court has held that the documents are not necessary dismissed the petition.

5. In the opinion of this Court that the trial Court had rightly decided the issue and dismissed the petition. There is no infirmity or error in the order. The Civil Revision Petition lacks merits and is liable to be dismissed.

6. In the result, the petition stands dismissed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a
: web copy of the order may be utilized for official purposes,
but, ensuring that the copy of the order that is presented is
the correct copy, shall be the responsibility of the
advocate/litigant concerned.

To

The Principal District Judge, Tiruchirapalli.

+1 CC to M/s.S.PONSENTHIL KUMARAN, Advocate (SR-32541[F] dated
26/10/2021)

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MGJ/JC(11.11.2021) 2P 3C