



C.R.P(NPD).No.607 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

C.R.P(NPD).No.607 of 2022 and
C.M.P.No.3159 of 2022

A.Sabarivasan
S/o. B.Amrutha Ganesan

... Petitioner

Versus

V.Chandra Lekha
W/o. A.Sabarivasan,

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow this Civil Revision Petition and set aside the docket order dated 26.11.2021 passed in G.W.O.P.Sr.No.OP/424/2021 on the file of Hon'ble Family Court, Vellore.

For Petitioner : Mr.S.Murali Krishnan

ORDER

The revision is filed challenging certain docket order passed in unnumbered G.W.O.P.Sr.No.OP/424/2021.

2. The revision petitioner is the father of the Children and respondent is the mother. He had filed guardian ward petition to declare that the



petitioner/father of the Children as the permanent guardian of the two minor children.

3. This was returned on filing on the following grounds:

- (a) How is prayer (a) maintainable. Petitioner is a natural guardian of the minor to be stated as per u/s 6 of the HMG Act 1956.
- (b) How this petition is maintainable on the point of territorial jurisdiction {u/s 9 of the GW Act 1890}

4. This is challenged in this revision on the ground of return.

5. This Court is literally shocked to read ground Nos.1 and 3 for the grounds of return. Ground No.1 extracted above indicates that the Court insists on a statement in the pleadings of the Revision petitioner that he is the natural guardian of the minor children under Section 6 of the Hindu Minority and Guardianship Act, 1956, and ground No.3 relates to territorial jurisdiction of the minors in maintaining the Guardian and Wards original petition before the Court in Vellore in terms of Section 9 of the Guardian and Wards Act 1890.



5.1. So far as first ground goes, a perusal of the petition shows that even in paragraph No.1, the revision petitioner has made a statement that he has married the respondent and the minors were born to him. Whether some body is a natural guardian or not, is a legal consequence of the children born out of a valid marriage.

5.2. This Court is aghast as to why a specific pleading must be required on that aspect. In this regard, the Family Court, Vellore has totally ignored the order of this Court in the case of ***Selvaraj Vs. Koodankulam Nuclear Power Plant***. It is not for the Court to dictate as to what should be pleaded, and it must be left to the choice of the parties. Let the party be allowed to stand by the pleadings, and it is their obligations to sustain their pleadings.

6. Turning to Paragraph 9 is concerned, Application is filed before the Family Court and Section 7 (1)(g) of the Family Act empowers a Family Court to deal with the issue relating to custody of the children born out of marriage. This Court considers that there is lack of application of mind by the learned Family Judge on this issue. It is also now evident that the learned Family Judge has



not trained his passing officer/Sherishtadar on the parameters that he has to take into account while scrutinising any petition/application filed by the parties and that he is not entitled to. It is apparent that whoever is Passing Officer/Registry of the Family Court, he is absolutely ignorant about the ratio laid in ***Selvaraj Vs. Koodankulam Nuclear Power Plant India Limited and Others*** reported in 2021 (4) CTC 539 : 2021-3-LW 677 : 2021 (3) MWN 73]

7. The Revision petitioner is now required to represent the petition again before the Family Court, which has to now apply the mind to the facts stated as in terms of what is stated above.

8. With the above observations, this Civil Revision petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

9. Registry is required to return the original copy of the G.W.O.P. to the petitioner. The Registry is also required to obtain records of learned Family Judge as to why he/she chose to ignore the ratio in ***Selvaraj Vs. Koodankulam Nuclear Power Plant India Limited and Others*** reported in 2021 (4) CTC 539 : 2021-3-LW 677 : 2021 (3) MWN 73] and what steps



C.R.P(NPD).No.607 of 2022

have been taken by him/her in training the Sherishtadar of the Court.

WEB COPY

07.03.2022

Index : Yes/No
Speaking Order/Non Speaking Order
msv/dk

To
The Hon'ble Family Court, Vellore.

N.SESHASAYEE, J.,



WEB COPY



C.R.P(NPD).No.607 of 2022

msv/dk

C.R.P(NPD).No.607 of 2022 and
C.M.P.No.3159 of 2022

07.03.2022