



O.P.No.820 of 2018

WEB COPY

C.V.KARTHIKEYAN,J.

The matter is posted at 4.30 p.m in the chambers for the presence of the petitioner and the respondent and the child. Accordingly, the petitioner / father and the respondent / mother along with the child are present in the chambers.

2.Learned counsel Ms.Rita Chandrasekar, for the petitioner / father and learned counsel Ms.Kanimozhimadhi, for the respondent / mother are also present.

3.The child was born in the year 2010. He is now in the custody of the mother. The parents had obtained a decree of divorce. The child is now studying in VII standard in Don Bosco, Matriculation Higher Secondary School in Egmore, Chennai. He is interested in Basket Ball. He undergoes training in Basket Ball, after school hours. At this age, it would be certainly important that he is given freedom and liberty to move with his friends in the school, which memories are the only memories he will cherish later in his life and whose relationships are the only relationship he would continue further in life.



4.The father is at Trichy. He is working from home and he is employed in Infosys, as Architect Manager. He designs software for the clients of Infosys. He is however paid monthly salary. His aged parents, aged 80 years and 70 years, are residing with him. They are staying in their own house. The house is in the name of the petitioner's father. The grandfather also has seven acres of land, which were originally agricultural lands, but are now threatened to be converted to housing plots. They are situated in the outskirts of Trichy town.

5.The respondent / mother has found employment in Chennai and has moved from Thiruvavarur. She is now working as an Assistant Professor in Madras School of Social Work, which place of work is practically opposite to the school in which the child is studying. She is staying along with the child in a rented house. The mother drops the son in the school and she brings him back from school, after he completes his Basket Ball coaching.

6.In view of the divorce granted and in view of the fact that it is also essential that the petitioner stays with his parents, which is only understandable, since the parents are quite advanced in age, it would only be appropriate that the child continues to be in the custody of the respondent. In



order to give a finality to that particular aspect, I grant the respondent permanent custody of the child.

7.The learned counsel for the petitioner and also the petitioner expressed that necessary visitation rights may granted to the petitioner to visit his son. The earlier visitation in the residence of the respondent, has only left bad memories for the petitioner and the respondent, with each having their own grievances, over the manner in which either the petitioner was treated or the thought process of respondent that the petitioner could have been a little more appropriate during the meetings.

8.But let a quietus be given to all that had happened in the past.

9.For the welfare of the child both the petitioner and the respondent must exhibit maturity, vis-a-vis their relationship with the child. They should understand that the child is aged about 12 years as on date, and that this is an age when he would begin to dream and would aim to move higher in his studies and excel in his sports activities. The child is also interested in street plays and has also played roles in such plays. These are activities which are to be encouraged by both the parents and their attention should be focused in helping him becoming better at those extra curricular activities.



10. In view of the fact that the child has to study further, it would only be advisable that he continues in the same school, till he completes XII standard. For that necessary forms will have to be filled in the school and it is always appropriate that consistently in all the forms which are provided, the same parent signs.

11. Viewed from the angle of child, I would direct that the respondent be given that responsibility of being as the guardian of the child. I am confident that the respondent will not have any conflict of interest in the welfare of the child. This would also indicate that she should encourage the child to also have interactions with his father and his grandparents and with his father's relations. This is one responsibility which the respondent should encourage and I am sure much prudence will be exhibited by her in forging a healthy relationship between the child and his father.

12. Insofar as the visitation rights are concerned taking into consideration the fact that the child is aged about 12 years and studying in VII standard in a school, where he would be more at home with his friends and is playing Basket Ball and also participates in drama and acting in street plays, for the present, let the father visit the child on the first Sunday of



every month. Let him come over to the residence of the respondent and I am confident that the respondent would permit a healthy atmosphere during the interaction between the father and son, which after all for the present is only once in a month. The petitioner can interact with the child either in the residence of the respondent or he can take the child out, but inform the place where he is taking the child to the respondent, so that the respondent would be able to contact the child, if there is any emergency.

13.It would only be appropriate on the part of the petitioner that he does not bestow any gift articles and cash and other objects to the child on that one particular day. That would only lead to a negative impression and it would be advantageous to the petitioner that he come to understand the mind of the child and forges a healthy relationship as father and son. That will be a stronger relationship built for the future. Let this arrangement continue. If any modification is required, either the petitioner or the respondent may file necessary application.

14.I am informed that the child has not had any interaction with his paternal grandparents. That interaction should be encouraged. The respondent stated that she has never prevented that relationship from being forged.



15.I would direct that once in every three months or certainly once in every four months, the child, depending upon the school holidays and the coaching class in basket ball, be encouraged to visit the paternal grandparents at Trichy and stay with them for atleast two days.

16.The respondent's parents are in Thiruvavarur, so the respondent can very well take the child to Trichy and drop the child there and go over to Thiruvavarur and bring him back to Chennai. Even the petitioner can take the child to his place at Trichy. I hope that the petitioner and the respondent would take a prudent decision about that aspect, keeping in mind the necessity, not to de-stabilize the emotions of the child. Such memories should be something to be remembered with a positive aspect and not in a negative manner and the child should be expected to go back to the grandparents again.

17.On any religious holidays, the child's father can also interact with the child. The most important aspect is that the father should build a healthy relationship with the child. That should be first ensured and thereafter, that relationship can be extended to the parents of the petitioner. If the petitioner is not able to forge a healthy relationship, the child cannot be extended to focus attention on the parents of the petitioner.



18.The other terms between the petitioner and the respondent had been taken care of in the proceedings before the III Additional Principal Family Court, Chennai in O.P.No.4453 of 2014 in which orders had been passed on 09.03.2018 and therefore, I am consciously avoiding other aspects.

19.In the result, this Original Petition is disposed of with the following directions,

(i)The respondent / R.Agnesh Roshini / mother is appointed as guardian of the person and properties of the child, Rithwin Oliver, who born on 16.01.2010, till the child attains the age of majority.

(ii)The respondent is granted permanent custody of the child.

(iii)The petitioner / S.Solomon Arokiaraja Durai / father of the child is granted permission to visit the child on the first Sunday of every month between 9.00 a.m and 6.00 p.m. He is permitted to take the child out to forge a healthy relationship between themselves. In this regard, pampering the child with gift articles may not be prudent. That money can be invested in a Recurring Deposit by the petitioner / father in the name of the child.

(iv)The child may be encouraged by the respondent to go over to Trichy to stay with his paternal grandparents for atleast two days, initially once every three or four months.



WEB COPY



C.V.KARTHIKEYAN,J.

smv

(v)To the extent possible on religious holidays and on public holidays, the petitioner may also visit the child, but if he does so, he may inform in advance to the respondent about the visit and give due regard if the respondent and the child have any other engagements like, school or other aspects, on those particular dates.

(vi) No order as to costs.

22.11.2022

smv

O.P.No.820 of 2018