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C.R.P. (PD) .No.2789 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2789 of 2021

and

C.M.P.No.20256 of 2021

P.Elayarasu

.. Petitioner

Vs.

1.Muthusamy

2.Manimala

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order passed in I.A.No.1 of 2021 in GWOP.No.39 of 2019 on the file of the Principal District Judge, Namakkal, dated 06.10.2021.

For Petitioner : Mrs.L.Srileka

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ORDER

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The petitioner challenges the order made in I.A.No.1 of 2021 in GWOP.No.39 of 2019 on the file of the learned Principal District Judge, Namakkal.

2. GWOP.No.39 of 2019 has been filed by the petitioner who is the father of the child seeking to appoint himself as guardian of the minor child. Pending the said petition, the petitioner sought for interim custody of the child during Saturdays, Sundays and during Vacation.

3. The learned Principal District Judge dismissed the application on the ground that the visitation rights or interim custody is governed by the order of the Division Bench of this Court made in HCP.No.669 of 2018. The petitioner had filed HCP.No.669 of 2018 seeking production of the minor child Pranaveega before the Court. While disposing of the said Habeas Corpus Petition, the Division Bench of this Court had granted visitation rights to the petitioner on every Sunday between 10.00 a.m. and 12.00 noon, liberty was also granted to him for seeking custody of the child.



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Exercising the said liberty, the petitioner had moved the District Court for appointing himself as guardian and seeking custody of the child.

4. I am of the opinion that the learned District Judge was justified in dismissing the application for interim custody during holidays and vacation, in view of the order passed by this Court in HCP.No.669 of 2018. The order now sought for by the petitioner in I.A.No.1 of 2021 would amount to a variation of the order of the Division Bench by the learned District Judge. The same cannot be done.

5. Therefore, leaving it open to the petitioner to move the Division Bench seeking modification of the order made in HCP.No.669 of 2018, this Revision is **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

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R.SUBRAMANIAN, J.

dsa

To

The Principal District Judge, Namakkal.

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