



C.R.P.(MD).No.1724 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 14.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

C.R.P.(MD).No.1724 of 2022 and
CMP(MD) No.7559 of 2022

Firdhaus Nada

Petitioner

Vs.

Navas Khan

Respondent

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the order and decree made in I.A.No.3 of 2021 in G.O.P.No.99 of 2021 on the file of the Family Court, Thanjavur dated 05.07.2022.

For Petitioner : Mr.N.Balakrishnan

For Respondent : Mr.S.Jayachandran

ORDER

This Civil Revision Petition is filed as against the order passed by the learned Judge, Family Court, Thanjavur in I.A.No.3 of 2021 in G.O.P.No.99 of 2021, dated 05.07.2022.



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2. The petitioner herein, who is the mother of the minor child, namely, Fazanahamed filed G.O.P.No.99 of 2021, before the Principal District and Sessions Court, Thanjavur for declaration declaring that the petitioner is the guardian of her minor son and also for custody of her minor child. Pending this petition, the respondent husband filed an interlocutory application in I.A.No.3 of 2021, under Section 12 of the Guardian and Wards Act, 1890 for the visitation right of his minor son, which was allowed by the trial Court by its order dated 05.07.2022. Aggrieved over the same, the petitioner is before this Court with the present Civil Revision Petition.

3.The learned counsel appearing for the petitioner submits that the marriage between the petitioner and the respondent was performed on 11.03.2012 and out of the wedlock, a male child was born on 07.06.2013. Due to some difference of opinion, they separated and the respondent/husband pronounced 'triple talak' on 26.12.2017. The petitioner has also married another person and they



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are living separately. The petitioner filed G.O.P.No.99 of 2021 for custody of the child and the same is pending. At this juncture, the respondent filed I.A.No.3 of 2021, seeking for visitation rights. According to the petitioner, the trial Court, without knowing the consequences of the second marriage performed by the petitioner allowed the application filed by the respondent. The learned counsel appearing for the petitioner has expressed his concern that if the respondent visits the child, it may create some problem for her new life and therefore requests this Court to interfere with the order.

4.The learned counsel appearing for the respondent submits that the respondent is the natural guardian of the minor child and he has every right to visit the child. Before the trial court, the petitioner herein has not even filed her counter affidavit. He wants visitation rights atleast once in a month.

5.This Court considered the rival submissions made and also perused the materials placed on record.



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6.It appears that the marriage between the petitioner and the respondent was performed on 11.03.2012 and they have blessed with a male baby on 07.06.2013. The respondent has pronounced 'triple talak' on 26.12.2017 and from thereon, they are living separately. After the dissolution of marriage, the minor child is with the petitioner. Now, the petitioner has also married another person and they are living separately. The minor child is taken care of by his grand parents/the petitioner's parents. The petitioner has taken a specific stand that if the respondent visited the child, it may create some problem for her new life. However, it cannot be denied that the respondent has also equal rights on the child. Hence, considering the overall facts and circumstances of the case, this Court is inclined to modify the order passed by the trial Court that the respondent shall visit the child once in a month.

7.Accordingly, this Civil Revision Petition is disposed of. The respondent is permitted to visit his son once in a month at the residence of the petitioner's father's house, till the disposal of the



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main G.O.P.No.99 of 2021 with prior intimation to the petitioner.

Considering the welfare of the child, the trial Court is directed to conclude the main G.O.P.No.99 of 2021, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

14.09.2022

Index :Yes/No

Internet :Yes/No

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To

The Family Court,

Thanjavur.



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B.PUGALENDHI,J.

Order Made in
C.R.P.(MD).No.1724 of 2022 and
CMP(MD) No.7559 of 2022

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