



WEB COPY



OSA.No.21of 2023 and CMP.No.1360 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Original Side Appeal No.21 of 2023
and
CMP.No.1360 of 2023

M.V. Nandhinee

.. Appellant

Versus

1. V. Asokan
2. A. Devika

.. Respondents

Original Side Appeal filed under Order 36 Rule 1 of the Original Side Rules read with clause 15 of the Letters Patent to set aside the order and decreetal order dated 12.01.2023 made in O.P.No.649 of 2022.

For Appellant : Mr. J. Ramesh
for Mr. Kasirajan

For Respondents : Mrs. Rita Chandrasekar
for Ms. R. Meenakshi

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

The present Original Side Appeal has been preferred by the appellant against the interim order dated 12.01.2023 passed by the learned Judge in O.P.

No. 649 of 2022.

<https://www.mhc.tn.gov.in/judis>



2. The aforesaid Original Petition No. 649 of 2022 was filed by the respondents herein praying to declare them as the guardians of the minor child Niralyaa till she attains majority.

3. According to the appellant, the marriage between her and the son of the respondents namely Dr. Maheshwar was solemnized on 06.03.2016. Due to the wedlock, the female Child namely Niralyaa was born on 28.04.2017. While so, the husband of the appellant committed suicide on 25.11.2021. The respondents herein are paternal grand-parents of the minor female child "Niralyaa" who is aged about 6 years; and they filed OP.No.649 of 2022 seeking to declare them as the guardians of the minor child till she attains the age of major. Subsequently, they filed interim application in A. No. 4787 of 2022 seeking for visitation of the child on fortnightly basis. After considering the submissions of both sides, the interim application was ordered on 21.12.2022 with direction to pick up the child from the house of the appellant on Saturday morning at 10.00 AM on condition that the child should be handed over to her on or before 5.00 PM on Sunday on fortnight basis. On the basis of the aforesaid order, on 24.12.2022, the respondents along with police officials came to the appellant's house and asked for the child. However, the child refused to go with the respondents. Notwithstanding the



same, the respondents created commotion and insisted to hand over the child to them on the basis of the order passed by this Court. Therefore, the appellant filed modification petition and the same was ordered on 12.01.2023, which is impugned herein, reiterating the order permitting the respondents to have visitation right of the minor child. However, in para 3(ii) of the order, it was directed that the child shall not be taken out of Cuddalore during the said period, where the appellant resides. Aggrieved by the said interim order of the learned Judge passed on 12.01.2023, the appellant has come up with the present original side appeal.

4. Today, when the matter was taken up for consideration, the learned counsel appearing on both sides submitted that they are inclined to go before the learned Judge dealing with the Original Petition to redress their grievances in the manner known to law.

5. Considering the facts and circumstances of the case and as agreed to by the learned counsel appearing for both sides, this Original Side Appeal stands disposed of, leaving it open to the parties to agitate their rights before the learned Judge, with whom O.P. No. 649 of 2022 is pending. Till a final decision is taken in the said original petition, the interim arrangement made in



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the order dated 12.01.2023 shall stand continued. No costs. Consequently,
connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
18.04.2023

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