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CRP.No.330 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRP.No.330 of 2023

Charly Chacko

...Petitioner

Vs.

Smitha Sarah Thambi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 18.04.2022 made in I.A.SR.No.3415 of 2022 passed by the Learned Principal District Judge, Namakkal, returning the application filed by petitioner seeking fir interim custody of his minor children consequentially to direct the Learned Principal District Judge, Namakkal to number the I.A.SR.No.3415 of 2022 and to decide the same on merits.

For Petitioner : Mr.S.Sathish Rajan



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ORDER

This Petition has been filed by the Husband seeking to set aside the Order of the Learned Principal District Judge, Namakkal dated 18.04.2022 made in I.A.SR.No.3415 of 2022 in I.D.O.P.No.102 of 2019 in rejecting the above said application.

2. It is the contention of the Learned Counsel for the Petitioner that the Petitioner/Husband had filed a Petition in I.A.SR.No.3415 of 2022 seeking interim custody of the minor children during the Summer Vacation for the academic year 2021-2022. However, the Learned Principal District Judge, Namakkal had rejected the same. For better appreciation, the relevant portion is extracted hereunder:

"As per order of the Hon'ble High Court, Madras in CRP.(PD).No624/21 dated 08.04.2021, the Petitioner/father was already granted visitation right over his minor son and the aforesaid order is still in force. How this Petition is maintainable?. Hence returned. Time 15 days."

Aggrieved by the same, the Petitioner had approached this Court by way of filing the present Civil Revision Petition in CRP.No.330 of 2023 under Article 227 of the Constitution of India.



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3. This Court perused the order passed by the Learned Principal District Judge, Namakkal and this Court is of the view that, the above said order dated 18.04.2022 does not warrant interference of this Court in the light of the earlier order passed by this Court in CRP.No.624/21 .

4. Further, the Petitioner filed a Petition in CRP.No.624/21 and the same was disposed of by this Court, vide order dated 08.04.2021, granting visitation rights to the Petitioner. On the earlier occasion also, the Petitioner had approached this Court by filing the above said Petition under Article 227 of the Constitution of India in CRP.No.624 of 2021, seeking to set aside the order passed by the very same Learned District Judge, Namakkal in I.A.No.1 of 2019 in I.D.O.P.No.102 of 2019 dated 13.10.2020 and sought for interim custody of the children during the weekends, holidays and vacations. However, this Court, vide order dated 08.04.2021, instead of granting interim custody, had modified the visitation rights ordered by the Learned Principal District Judge, Namakkal and permitted the Petitioner to see his minor children on 4th Saturday of every month between 2.00 p.m. and 5.00 p.m. at the premises of the Legal Service Authority in the District



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Court Complex at Namakkal **instead of** 4th Sunday of every month between 10.00 a.m. and 1.00 p.m. in the presence of the Inspector of Police at All Women Police Station and further directed the Learned District Judge to appoint a responsible officer to be present, if required, during the interaction which the Petitioner has with his children.

5. In view of the above, this Court is of the view that the rejection order passed by the Learned Principal District Judge in rejecting the unnumbered Petition in I.A.SR.No.3415 of 2022 does not warrant interference of this Court.

6. Further, while dictating the above order, the Learned Counsel for the Petitioner requested this Court to consider the fresh application if any filed by the Petitioner, as the Vacation for the academic year 2021-2022 has already expired.

7. In view of the above request made by the Learned Counsel for the Petitioner, this Court issues direction to the Learned Principal District Judge, Namakkal to consider the fresh application to be filed by the



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Petitioner on merits and in accordance with law, if the Petitioner files petition, seeking for interim custody only during the Summer Vacation for the academic year 2022-2023.

8. With the above observations and directions, this Civil Revision Petition is disposed of. No costs.

23.02.2023

skt

Index : Yes / No

Internet : Yes / No

To

The Learned Principal District Judge,
Namakkal.



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