



Crl.M.P.No.3443 of
in H.C.P.No.1025 of 2020

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V.M.VELUMANI, J.

and

V.LAKSHMINARAYANAN, J.

(Order of the Court was delivered by V.M.VELUMANI, J.)

This petition is filed to clarify the order dated 12.08.2020 made in H.C.P.No.1025 of 2020 that the petitioner has the liberty to get custody order of her minor daughter Tvisha Selby, 8 years old born on 24.02.2015, from the Family Court, Salem. Learned counsel appearing for the petitioner submitted that divorce petition has been transferred to the Family Court, Salem and the same is pending before the Family Court, Salem.

2. Learned counsel appearing for the respondents 3 to 5 submitted that after passing of order dated 12.08.2020 in H.C.P.No.1025 of 2020, the petitioner approached the Family Court, Salem, for interim custody of the child and the Family Court, Salem, granted interim custody of the child to the petitioner. Challenging the said order, the 3rd respondent filed C.M.A.No.2913 of 2022 before this Court and the same is pending. In view of the same, the petitioner is not entitled for any clarification and prayed for dismissal of this petition.



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3. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents 1 & 2, learned counsel appearing for the respondents 3 to 5 and perused the entire materials on record.

4. From the materials on record, it is seen that after marriage of the petitioner with 3rd respondent, marital relationship became strained between the petitioner and 3rd respondent. The petitioner and 3rd respondent are living separately. According to the petitioner, minor child was forcibly taken by the respondents 3 to 5 and minor child is in the custody of the respondents 4 & 5. The Child Welfare Committee, Mumbai considering the pendency of the divorce petition filed by the 3rd respondent before the Family Court, Mumbai, handed over the minor child to the respondents 4 & 5 and observed that it is open to the petitioner to approach the Family Court for custody of the child. The petitioner filed H.C.P.No.1025 of 2020 before this Court. This Court by the order dated 12.08.2020 taking into consideration the order passed by the Child Welfare Committee, Mumbai, permitted the petitioner to have Video-Conference with her minor child on every Saturday and Sunday between 5.00 p.m. & 6.00 p.m. or 6.00 p.m. & 7.00 p.m. According to the petitioner, in the open Court, this Court observed that petitioner can approach the Family Court, where the divorce petition



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is pending for custody of the child. But the said observation was not incorporated
in the order dated 12.08.2020 in H.C.P.No.1025 of 2020.

5. The petitioner is seeking permission to approach the Family Court for custody of the minor child. This Court makes it clear that it is always open to the petitioner to approach the Family Court where divorce petition is pending for custody of the child.

6. We make it clear that we have not decided any merits of the case. In view of the same, it is open to the respondents 3 to 5 to make their objections in the C.M.A. filed and petition filed by the petitioner before the Family Court, where divorce petition is pending.

7. With the above observation, this Crl.M.P. is ordered.

(V.M.V., J) (V.L.N., J)
21.03.2023

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