



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.2671 of 2022

Mrs.Uma Maheswari

... Petitioner

Vs.

Mr.Ashok Raja

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, setting aside the order dated 09.02.2022 made in I.A.No.3 of 2021 in I.A.No.1 of 2019 in H.M.O.P.No.140 of 2018 on the file of the Hon'ble Additional Family Court at Coimbatore.

For Petitioner : Mr.R.Venkatesh

For Respondent : Mr.P.Suresh Babu

ORDER

The Civil Revision Petition has been instituted to set aside the order dated 09.02.2022 made in I.A.No.3 of 2021 in I.A.No.1 of 2019 in H.M.O.P.No.140 of 2018 on the file of the Hon'ble Additional Family Court at Coimbatore.



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2. The petitioner and the respondent filed an application under Section 13-B of the Hindu Marriage Act for divorce upon mutual consent before the Additional Principal Family Court, Coimbatore. The mutual consent application filed between the husband and wife was allowed by the Additional Principal Family Court, Coimbatore in H.M.O.P.No.140 of 2018. Thereafter, the revision petitioner filed I.A.No.3 of 2021, seeking Visitation Right in respect of two minor children namely Minor S.A.Kairawin and Minor S.A.Newinn. The Additional Principal Family Court, Coimbatore adjudicated the issues between the parties and granted Visitation Right to the petitioner/mother to meet her sons on all Sundays between 11.00 a.m to 1.00 p.m at any public place in Coimbatore as described in the order dated 09.02.2022.

3. The revision petitioner states that she has been deprived of her right to meet her children and the respondent is preventing her to talk with the children. She had been ill-treated and prevented from exercising the Visitation Right as granted by the Additional Principal Family Court at Coimbatore. Thus, the Visitation Right is to be expanded, till such time, the G.W.O.P is decided by the Family Court at Coimbatore.



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4. In order to ascertain the mindset of the minor children, this Court directed the minors to be present and Minor S.A.Kairawin, who appeared before this Court, in clear terms, expressed his wishes. He said that he is not interested in meeting his mother as his father is looking after him with love and affection and he is happily living with his father. In fact, the boy is accusing the petitioner of ill-treating him at the initial stage. Now, the minor boy is aged about 13 years and capable of understanding the issues. Voluntarily, he informed before this Court that he is not interested in meeting his mother and he is happily leading his life along with his father, who got married with another woman, who is also taking care of the minor children. The minor boy further states that he wants to concentrate on his education and any further disturbance would cause inconvenience to him to pursue his education.

5. This being the wishes expressed by the minor boy before this Court in unambiguous terms, this Court has no option, but to reject the Civil Revision Petition filed by the revision petitioner.



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6. It is not the best interest of the children to be protected, but the wishes along with the best interest to be considered by the Courts for the purpose of determining the issues raised.

7. In the present case, the minor children are happily living with their father and pursuing their education. The minor Boy S.A.Kairawin has clearly stated that he is not interested in meeting his mother and this being the factum, this Court is not inclined to entertain the Civil Revision Petition for the purpose of expanding the scope of Visitation Right as ordered by the Additional Principal Family Court at Coimbatore.

8. Accordingly, the Civil Revision Petition stands dismissed. No costs.

20.01.2023

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Index : Yes
Speaking order
Neutral Citation : Yes

To



The Judge,
Additional Principal Family Court,
Coimbatore.

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S.M.SUBRAMANIAM, J.

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