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A.Nos.3929 & 3930 of 2022 in
O.P.No.513 of 2022 &
O.P.No.554 of 2023

R.N.MANJULA,J.

The petitioner in O.P.No.513 of 2022 is the father of the minor child Advaidh Menon and the petitioner in O.P.No.554 of 2023 is the mother of the minor child Advaidh Menon. Both the petitions have been filed by the parents of the minor child seeking custody and appointment of guardian. At present, the minor child is in the custody of the mother. In the Original Petition filed by the father, he has filed two applications in A.Nos.3929 and 3930 of 2022 for seeking visitation and for interim custody of the minor child for three consecutive days every month and to restrain the respondent from removing the child from the present address.

2. Ms.Geetha Ramaseshan, learned counsel for the applicant / father submitted that various matrimonial proceedings are pending between the applicant and the respondent and the applicant has been sincerely taking proceedings in all possible ways for seeking custody of the minor child. It is further submitted by the learned counsel for the applicant / father that during the divorce proceedings pending before the Family Court, Ernakulam, the respondent / mother has given an undertaking to co-operate for some visitation



arrangements. However, in the order of the divorce dated 17.08.2015, no order has been passed as to the visitation right of the father. Subsequently, the petitioner has filed an application in I.A.No.2894 of 2016 in O.P.No.1226 of 2014 before the Family Court, Ernakulam for granting visitation rights. Since the child was at abroad at that point of time and also considering various other factors, the said petition was dismissed. The father of the minor child had filed a petition challenging the above order before the High Court of Kerala in O.P.No.677 of 2018. The said petition was also dismissed by giving liberty to the petitioner for getting appropriate remedy available under law and thereafter, the petitioner had filed this Original Petition seeking guardianship and custody. The above said proceedings form part of the typed set of papers submitted by the respondent / mother as well in her O.P.No.554 of 2023.

2.1. On the strength of the above proceedings, it is claimed by the learned counsel for the applicant / father that the father was continuously taking proceedings for visitation and the delay is due to the pendency of various proceedings and not due to the reluctance on the part of the father. Hence the learned counsel for the applicant / father prayed to give visitation rights once in a week.



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3. Ms.K.Santhakumari, learned counsel for the respondent / mother submitted that there is no quarrel on the proceedings which form part of the typed set of papers filed by the mother in her petition in O.P.No.554 of 2023. But the child does not have any inclination to interact with the father and the order of visitation would cause mental trauma on the child and hence the interest and welfare of the child should be considered as paramount importance. It is further submitted that the child is aversive to the Court proceedings and in the event of allowing visitation right to the father, that may be for once in a month at the Child Care Centre, Family Court, Chennai.

4. I had an interaction with the child by causing his personal appearance on 24.08.2023. The records show that the child appeared on earlier occasion before this Court on 15.06.2023. In the order dated 19.06.2023, there is a direction to do psychiatric evaluation by Dr.Nappinnai Cheran. The Doctor has submitted her report by stating that the child has developed a negative opinion about his father and it was due to the influence of his mother and grandmother. The Doctor has also stated about some other concerns in the minds of the grandparents of the child. However the learned counsel for the respondent / mother objected to the opinion of the Consultant Psychologist Dr.Nappinnai Cheran.



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5. Whatever may be the technical aspect of the psychiatric evaluation of the child, the fact remains that the child does not show any interest to meet his father. After interacting with the child on 24.08.2023 this Court has recorded that the child had repeatedly told that he did not want to see his father at all. It is clear that the child is suffering from parental alienation in view of the fact that he got separated from his father for several years. The child is now 12 years old and he continues to be under the custody of his mother. Even though the respondent / mother felt reasonable to accept the visitation right of the father, she felt insecure to have the visitation right in any public place and that would endanger the safety of the child.

6. The learned counsel for the applicant / father suggested that since the child is not comfortable with the Court atmosphere, the place of visitation can be at any one fun place like (i) Gameistry Entertainment, Egmore, (ii) Express Avenue, Chennai, (iii) Nassaa Uth Hub, Besant Nagar, Chennai, (iv) Mystery Room, Haddows Road, Nungambakkam, Chennai, (v) Lobby & Cafe Coffee Shop, GRT Grand Hotel, T.Nagar, Chennai. But the respondent / mother is not convinced of any of these places. According to her, the Child Care Centre, Family Court, Chennai, is a safe destination.

7. This Court is also conscious of the disinclination on the part of the



child. If the visitation is traumatic to the child, the said situation cannot be forced upon the child. In that case, the father has got no other go except to wait patiently, until the child could slowly attune to have a normal relationship with him. In the said circumstances, I feel that it is not possible to agree any visitation right to the father on weekly basis. Since the mother is the best person to counsel the child, it is appreciable if the mother could prevail on the child and reverse the negative thoughts of the child upon the father by segregating the matrimonial issues between herself and the father from the mind of the child. In such case, there is a little possibility that the child can have a different idea about the father and desire to meet him.

8. Taking into consideration of these factors, I feel in the first instance as a trial basis, the father shall be allowed to visit the child on 1st and 3rd Saturdays of every month at about 11 a.m. to 1.00 p.m. in the Child Care Centre, Family Court, Chennai. The respondent / mother shall take the child and leave him at the Child Care Centre, Family Court, Chennai, after giving him enough counselling and allow him to be alone with his father to the extent possible and take him back after the visitation hours are over.



9. If the parties or the child finds any difficulty in implementing the order, they are at liberty to seek any appropriate modification.

10. The matter is ordered to be listed after three weeks.

26.09.2023

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