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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.12.2023**

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.M.A(MD)NO.391 OF 2021
and
C.M.P(MD)No.3392of 2021

Bose :Appellant/Petitioner

.VS.

1.Bhuvaneswari : Respondent/Respondent

2.Krithika :Respondent/Near Relative

PRAYER: Civil Miscellaneous Appeal filed under Section 47 of the Guardian and Wards Act, 1890 against the fair and decretal order made in G.W.O.P.No.3 of 2018, dated 4.1.2021, on the file of the First Additional District Court, Madurai.

For Appellant :Mr.R.Gandhi

For Respondent-1 :Mr.P.Balasubramanian

For Respondent-2 :No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the order passed in G.W.O.P.No.3 of 2018, dated 4.1.2021, on the file of the First Additional District Court, Madurai.



2.G.W.O.P was filed by the appellant/Petitioner seeking the relief of appointing him as legal guardian to the minor Sumitha and Athiban. They are the children of first respondent/Bhuvaneswari and appellant's son Late Manimaran. The learned First Additional District Judge, Madurai, after contest, had dismissed the Petition. Challenging the said dismissal order, this Civil Miscellaneous Appeal is filed.

3.During the pendency of this appeal, a memo is filed by the appellant stating that due to age and his illness, the appellant is not insisting for the custody claim of the minor grand children, but wants to have visitation rights on every Sunday of English calendar month between 10.00 a.m and 1.00 p.m.

4.The relevant portion of the memo reads as under:

'2.It is submitted that during the pendency of the Civil Miscellaneous Appeal proceedings, due to the age of the appellant/Petitioner and his age old illness, now he is not insisting the custody claim of the minor grant children. Further, the appellant/Petitioner and his wife wants to claim the visitation right of their minor grand children namely, Sumitha(11 years old) and Athiban(8 years old) and they are ready and willing to see them monthly once in first Sunday(morning 10.00 a.m to Noon 01.00 p.m) at



Navaneetha Krishnan Temple at Thiruppalai, Madurai, until their lifetime. He further stated that it is sufficient for them. Hence, it is just and necessary to permit the appellant and his wife to see their grand children until their life time."

5. In reply to the memo, the learned counsel for the first respondent submitted that the appellant had caused several problems to the first respondent to see that she did not get the compensation awarded in Motor Accidents Claims case and the pension and other benefits due to her on the death of her husband. The appellant initiated several proceedings against the first respondent and he had created problems by coming along with numerous persons, when the appellant was granted visitation right earlier to see the minor grand-children.

6. This Court considered the rival submissions made on either side and perused the materials placed before this Court.

7. The appellant is the paternal grand-father of the minor children. The minor children namely, Sumitha and Athiban were born to the appellant's son Late. Manimaran and the first respondent in a legal marriage. He has given up the relief of appointing him as guardian of the minor children, but he content



with the visitation rights alone. As a paternal grand-father, he is entitled to have the visitation rights. He requires that he may be permitted to visit the minor children namely, Sumitha and Athiban on the first Sunday of English Calendar month from 10 a.m to 1.00 p.m. His request, in the facts and circumstances of the case, is just and legal.

8. In the said circumstances, this Court is inclined to accept his request for visitation rights as aforesaid and the appellant is permitted to have the visitation rights of the minor children Sumitha and Athiban on the first Sunday of every English Calendar month from 10.00 a.m to 1.00 p.m at Navaneetha Krishnan Temple, Thiruppalai, Madurai. The first respondent is directed to produce the minor children Sumitha and Athiban at Navaneetha Krishnan Temple, Thiruppalai, Madurai from 10.00 a.m to 1.00 p.m on every first Sunday of English Calendar month. The appellant is directed to visit the minor children alone, without any other third parties including his relatives and friends on the above aforesaid date, time and place. After the period of visitation rights is over i.e., from 10.00 a.m to 1.00 p.m., the minor children shall go with the first respondent.



9.The parties are at liberty to approach this Court, in case, any difficulty is experienced by any one of them, in implementing this order, by filing appropriate direction petition before this Court.

10.The Civil Miscellaneous Appeal is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

11.12.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn

To

- 1.The Ist Additional District Judge,
Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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G.CHANDRASEKHARAN,J.

vsn

**JUDGMENT MADE IN
C.M.A(MD)NO.391 OF 2021
and
C.M.P(MD)No.3392 of 2021**

11.12.2023