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C.R.P(PD)(MD).No.1015 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.04.2023

Pronounced on : 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.R.P(PD)(MD).No.1015 of 2019

1.Subhashini
2.Sundarajan

... Revision Petitioners

Vs.

1.Ravindran
2.Santhadevi

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 27.05.2019 passed in I.A.No.599 of 2019 in G.W.O.P.No.16 of 2018 on the file of the Family Court, Madurai.

For Petitioners : Ms.S.Mahalakshmi

For Respondents : Mr.C.R.Janarthanan

ORDER

This Civil Revision Petition is filed against the fair order and decreetal order dated 27.05.2019 passed in I.A.No.599/2018 in G.W.O.P.No.16/2018 on the file of the Family Court, Madurai.



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2. The brief facts of the case:

The revision petitioners are the respondents in I.A.No.599 of 2018 in G.W.O.P.No.16 of 2018. The revision respondents are the main petitioners in G.W.O.P.No.16 of 2018 on the file of the Family Court, Madurai. They filed the said petition against the revision petitioners for appointing them as guardian of their minor grand son Srisudhan. The revision respondents have also filed interlocutory application in I.A.No. 599 of 2018 for interim custody of the minor grand son on every Sunday from 9.00 a.m to 6.00 p.m. The revision petitioners have objected the said petition by filing counter. After hearing both, the Trial Court has observed that the revision respondents being grandparents of the minor child have visitation right and passed the impugned order dated 27.05.2019 directing the revision petitioners to hand over the minor child to them in the premises of Family Court, Madurai from 10.30 a.m to 5.00 p.m on working Saturday of every month. Aggrieved by the order of the Trial Court, the respondents therein have moved this Court by way of this Civil Revision Petition.

3. Heard both side and perused the records in this Civil Revision Petition.



4. The learned counsel for the petitioners has argued that the 1st petitioner is the biological mother of the minor child. The 1st petitioner got married with the son of the respondents namely Sridharan and after giving birth of the minor child, the son of the respondents died. At the time of death of the biological father, the minor child was aged at 4 months. Later the 1st petitioner got married the 2nd petitioner considering the welfare of the minor child and a deed of adoption was also executed in respect of minor child. The minor child did not know about his biological father and also did not know about the respondents as his grandparents since the 2nd petitioner showered affectionate on the minor child. Knowing all these facts, the respondents have filed the main petition and filed interlocutory application seeking interim custody of the minor child. The 1st petitioner being natural guardian of the minor child, the respondents are not entitled to custody of the minor child. The minor child is now growing under the care and custody of the petitioners herein and if the interim custody was given to the respondents, the child would get mentally affected as he has no knowledge about the death of his biological father and also about the respondents as grandparents. Considering the future welfare of the minor child, the impugned order has to be set aside.



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5. The learned counsels appearing for the respondents has contended that the respondents being grandparents of the minor child has all the right to maintain their grandson, as the petitioners admitted that the minor child was born to the 1st petitioner through the son of the respondents. In an earlier proceeding LSP No.585/2017 conducted before the Legal Aid Service Authority, on 21.07.2016 the petitioners have accepted the rights of the respondents on the basis of grandparents of the minor child and further accepted to produce the minor child to them. But, the petitioners failed to produce the minor child as accepted in LSP No.585/2017 and also the petitioners suppressed the alleged adoption deed. The respondents are grand parents of the minor child and they have visitation right and such right cannot refused. Further, this court has already observed in C.R.P.(PD)(MD) No.1396/2017 on 28.07.2017 that there is no need for interference upon the order in respect of the visitation right of the grandparents against their grand child. Therefore, the impugned order need not be interfered by way of this civil revision petition and the same may be dismissed.

6. On hearing both and on perusal of records, it is admitted that the biological father of the minor child was the son of the respondents and thereby they are grandparents of the minor child. The other arguments in



respect of the main GWOP need not be discussed in this Civil Revision Petition. It is admitted that the 1st revision petitioner is the daughter-in-law of the respondents and the 1st husband of the revision petitioner was son of the respondents, namely, Sridharan had died subsequent to the birth of the minor child and thereafter, the 1st revision petitioner contracted another marriage with the 2nd petitioner. Thereafter, the respondents filed the main GWOP to appoint them as guardian of the minor child and sought interim custody of the minor child. Though the revision petitioners resisted the entitlement of the respondents to seek for the interim custody of the minor child, they have not disputed that the respondents are the grandparents of the minor child and they have visitation right and to see the minor child. The Court below, considering the above facts and circumstances of the case and the fact that the 1st revision petitioner is now living with her 2nd husband after remarriage, held that the custody of the minor child shall be, by way of interim custody, produced in the court premises from 10.30 a.m. to 5.00 p.m on working Saturday of the Family Court every month upon visitation right. Therefore, it could be seen that the Court below, taking into account the fact that the grandparents are also entitled to have the visitation right to see the minor child, has passed the impugned order. This court holds that



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that the impugned order is correctly passed by the Trial Court and the same needs no interference by way of this Civil Revision Petition and thus, this Civil Revision Petition fails and the same is liable to be dismissed.

7. In the result, this Civil Revision Petition is dismissed. No cost.

07.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
vsd

To

- 1.The Family Court,
Madurai.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

vsd

Pre - Delivery Order made in
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