



CMA(MD)No.212 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

CMA(MD).No. 212 of 2023 and
CMP(MD).No.5761 of 2022

Arockia Leo Tolstoy Fernando

Appellant/ respondent

vs.

1.J.Sahaya Golden Pravina
2.Minor Joe Beovin Fernando
3.Minor. Mary Hashini Fernando

(Minors represented through their
mother / 1st respondent)

Respondents

PRAYER:- This Civil Miscellaneous Appeal is filed under Section 47 of the Guardian and Wards Act against the fair and decreetal order in GWOP.No.57 of 2016, dated 31.07.2019 on the file of the Principal District Judge, Thoothukudi.

For Appellant : Mr.P. Edin Brough

For respondents : Mr. K.A. Ramakrishnan



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JUDGMENT

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This Civil Miscellaneous Appeal is filed by the father of the minor children against the fair and decreetal order, dated 31.07.2019 passed in GWOP.No.57 of 2016, on the file of the Principal District Judge, Thoothukudi, allowing the petition of the mother by appointing her as the legal guardian of the minor children viz., Joe Beovin Fernando and Hashini Fernando respectively, as per Section 7(2) and 9 of the Guardian Wards Act, 1890.

2. At the request of both sides counsel, the matter is taken up for final disposal.

3. The learned counsel appearing for the appellant submits that though the appeal has been filed challenging the appointment of the first respondent as the guardian of the minor children, he is restricting the appeal for visitation rights alone. He further submits that being the biological father, the Court may permit visitation rights to the appellant.

4. The learned counsel appearing for the respondent submits



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that the respondent has no objection to the appellant visiting the children.

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5. In the light of the submission made, on the facts of the case and also considering the academic pursuits of the minor children, I am of the view that the appellant may be permitted to visit the children during the summer vacations of the children.

6. According to the respondents, in the month of September the minor children visit India for summer vacation and so the appellant can visit them at that time. Considering the fair submission of the respondent, the appellant is permitted to visit the minor children during their summer vacations in September. The appellant shall bear the costs of the Air fare from Dubai to Tuticorin of the minor children. It is made clear that the visit shall be restricted to once a week during the summer vacation, which it is represented will be a four weeks break. The appellant is permitted to visit the children in a public place of the children's choice.

6. In view of the consensus arrived at between the parties on visitation rights the order passed by the trial Court with regard to appointing the 1st respondent as guardian is confirmed and accordingly,



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this Civil Miscellaneous Appeal is disposed of. No costs. Consequently,
the connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
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The Principal District Judge, Thoothukudi.



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N. MALA, J.,

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