



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Seventh day of February Two Thousand and Twenty Three

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CMP(MD) No.9727 of 2022
IN
CMA(MD) No.714 of 2019

S.SIVARAMAN

... PETITIONER/PETITIONER/
APPELLANT

Vs

KALAIIVANI

... RESPONDENT/RESPONDENT/
RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass an order more in the nature of INTERIM DIRECTION to permit petitioner to have temporary custody of his minor daughter (Selvi.S. Yazhisai) in every weekend pending disposal of C.M.P.(MD).No.4848 of 2022 in C.M.A.(MD).No. 714 of 2019 on the file of this Honourable Court.

Prayer in CMA(MD). 714/ 2019 :

Pleased to call for the records relating to the Judgment and decree dated 26.08.2019 in G.W.O.P.No.28 of 2016 on the file of the Principal District Judge, Theni and set aside the same and allow the appeal.

PRAYER IN CMP(MD) No.4848 of 2022:

Pleased to direct the respondent herein to follow and implement the consent order dated 26-11-2019 passed in CMA(MD).No.714 of 2019 on the file of this Honourable Court and pass any other further orders to implement the order in CMA(MD).No.714 of 2019 in its full spirit.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S D.NALLATHAMBI, Advocate for the petitioner and of M/s.LAXMI GOPINATHAN, on behalf of the Respondent, the court made the following order:-



This petition has been filed seeking interim direction to permit the petitioner to have temporary custody of his minor daughter (Selvi.S.Yazhisai) in every weekend pending disposal of C.M.P.(MD)No.4848 of 2022 in C.M.A.(MD)No.714 of 2019 on the file of this Court.

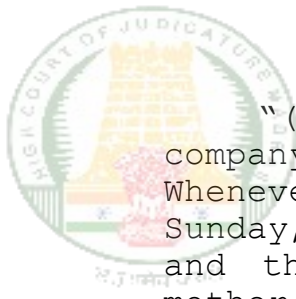
2.On the side of the respondent, it is stated that there was an earlier order by this Court dated 05.07.2022, wherein the petitioner (father) was permitted to visit the child on 10.07.2022 that was on her birthday and a direction was given to the respondent to produce the child before the Gnanambigai Temple, Uthamapalayam on 10.07.2022 at about 8.30 a.m., and to hand over the child to the father in the presence of the Executive Officer of the temple. The petitioner and his mother came to the temple with some Police Officials and the child was scared of them. In the consent order, the petitioner has undertaken to pay the rent for the residence of the respondent and the minor child. But the petitioner failed to pay the current charges and water charges and that was the reason for the respondent to leave the house and the respondent is now residing near her work place. Due to the change of circumstances, the consent order is to be recalled.

3.By way of reply on the side of the petitioner, it is stated that on that date, due to Ramzan, there was Police available in the temple for security purpose. It was not the petitioner, who brought the Police to the temple and the presence of the Police was wrongly described by the respondent.

4.There is a consent order dated 26.11.2019 passed in C.M.A.(MD)No.714 of 2019 on the file of this Court. The respondent herein has filed a petition in C.M.P.(MD)No.1385 of 2022 to recall that order whereas the petitioner herein has filed another petition in C.M.P.(MD)No.4848 of 2022, directing the respondent herein to follow and implement the consent order. Both the petitions are pending before this Court. Before the disposal of both the petitions, the petitioner has filed the present petition seeking temporary custody of the minor daughter during every weekend pending disposal of C.M.P.(MD)No.4848 of 2022 in C.M.A.(MD)No.714 of 2019.

5.It is seen that both the petitioner and the respondent were filing various petitions before this Court. Both the petitioner and the respondent were showing their grudges against each other and thereby, they are spoiling the life of the minor child. Without going into the merits of the petitions in C.M.P.(MD)No.4848 of 2022 and C.M.P.(MD)No.1385 of 2022, this Court has made some suggestion regarding the visitation rights and both side counsel agreed for the same.

6.Hence, this Court passed the following directions to be followed by both the parties:-



"(i)The petitioner and the respondent can enjoy company of the minor child on every alternative weekends. Whenever the child is having holidays i.e on Saturday and Sunday, one Saturday and Sunday to be spent with the father and the other Saturday and Sunday to be spent with the mother. In the same manner, if the child is having only one weekend holiday i.e. on Sunday, one Sunday to be spent with the mother and the other Sunday to be spent with the father.

(ii)During vacation, quarterly, half yearly and pooja holidays, the first part of the holidays to be spent with the father and the last part of the holidays to be spent with the mother.

(iii)On the date of Deepavali and Pongal and birthday of the child, the child has to spend six hours with the father i.e. from 09.00 a.m., till 03.00 p.m., and the remaining time to be spend with the mother.

(iv)Both the parents are advised not to pet the child too much whenever the child is with them.

(v)Both the parents are advised not to talk ill of the other spouse in the presence of the child.

(vi)Both the parents are advised to treat the child as if the child is in a normal family where the parents are together.

(vii)The motive of the parents should be to bring up the child as a good citizen and not to satisfy their whims and fancies.

7.The aforesaid order is to be followed till the disposal of the other two petitions in C.M.P.(MD)Nos.1385 and 4848 of 2022. Accordingly, this petition is disposed of.

sd/-

07/02/2023

/ TRUE COPY /

/02/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MRN

TO

THE PRINCIPAL DISTRICT JUDGE, THENI.

+1. C.C. to M/S D.NALLATHAMBI Advocate SR.No.2062

ORDER IN

CMP(MD) No.9727 of 2022

IN CMA(MD) No.714 of 2019

Date :07/02/2023

SA/SAR.2/10.02.2023/3P/3C

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