



C.M.A. (MD)No.285 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CMA(MD).No.285 of 2023

Rooban Chakkaravarthy

...Appellant

Vs.

Abinaya

.. Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 19 of Family Court Act r/w. Order 41 Rule 1 CPC against the order passed in GWOP.No.5 of 2022 on the file of the Additional District Judge, Ramanathapuram, dated 05.08.2022.

For Appellant : Mr. R.Venkatesh

For respondent : Mr. R. Udayakumar



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed against the order passed in GWOP.No.5 of 2022 on the file of the Additional District Judge, Ramanathapuram, dated 05.08.2022.

2. The above said GWOP has been filed for custody of minor child, which was dismissed by the trial Court and has granted visitation right of child from 10.00 am to 2.00 pm on every Sunday. Challenge made in this appeal is only with regard to the time limit restricted by the trial Court as far as the visitation right.

3. The learned counsel appearing for the appellant submits that if the time is extended per day it will meet the ends of justice and the appellant will spend some more time with the minor child.

4. As the appeal itself is restricted only in respect of the visitation rights and the learned counsel has not challenged the very dismissal of the petition for availing permanent custody, this Court is inclined to decide the appeal with regard to the time for visiting the minor



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child. The prayer in this appeal is only with regard to the visitation rights.

5. On a perusal of the entire order passed by the trial Court, this Court is of the view that the trial Court restricting the time from three hours in a week is not proper. The minor child is entitled to have time spent with the parents. There cannot be any time limit. When the trial Court has already granted visitation rights ought not to have restricted the time limit for three hours. The trial Court ought to have granted time till 6.00 pm on every Sunday.

6. Such view of the matter, this Court is of the view that mere company of father will develop the mental equilibrium of minor child. Otherwise, if the minor child is kept away from any of the parents that will lead to the serious problem and it will affect the minor boy in psychological aspect. Such view of the matter, reasonable time will be given to the father to see the minor child and it will be in the interest of minor child alone. This Civil Miscellaneous Appeal is modified only to the extent of visitation rights. Accordingly, the appellant is entitled to visit the minor child on every Sunday from 10.00 a.m., to 6.00 p.m.,

7. In such circumstances, the learned counsel appearing for the



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appellant submitted that the trial Court directed the appellant to go and visit the child in the respondent's house and take custody of the minor child. He further submits that there is a difficulty in going to the respondent's house since the relationship got strained and it is very difficult for him to go to the respondent's house and it leads to further complications.

8. In such view of the matter, instead of appellant going to the house of the respondent on every Sunday, the respondent shall bring the child to Valividu Murugan Temple situated at Ramanathapuram Town at 10.00 am and hand over the child to the appellant. The appellant shall take the child from the temple at 10.00 a.m., on every Sunday and return the child to the respondent on the same day at the same place at 6.00 p.m.,

9. With the above directions, this Civil Miscellaneous Appeal is disposed of. No costs.

24.03.2023

Index : Yes/No

Internet : Yes/No

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To



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N.SATHISH KUMAR, J.

trp

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