



A.Nos.2692 and 2693 of 2024 in O.P.No.263 of 2024

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Orders Reserved on
27.08.2024

Orders Pronounced on
30.08.2024

A.Nos.2692 and 2693 of 2024

in

O.P.No.263 of 2024

RMT. TEEKAA RAMAN., J.

The main Original Petition was filed by the father seeking to appoint him for custody of the minor boy Master Atharvan C Karthikeyan aged about 12 years. The parties are referred to as father, mother and minor child.

2. The petitioner is the husband and the respondent is the wife.

3. The petitioner and the respondent had a love marriage solemnized on 27.08.2006 at Rasi Thirumana Mandapam, Thali Road, Udulmaipettai. The minor boy Master Atharvan C.Karthikeyan born on 09.10.2011. Due to the matrimonial discord between the parties, the respondent-wife has filed H.M.O.P.No.18 of 2018 for the divorce on the ground of cruelty before the Principal Sub Judge at Chengalpattu on 05.07.2018 and also filed G.W.O.P.No.18 of 2018 on 22.11.2018 before the learned Principal District Judge at Chengalpattu to appoint the respondent as a natural guardian.

4. It is seen from the records at the time of the filing, the minor was aged about 7 years.



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5. A Memo of Compromise appears to have been filed before the G.W.O.P.No.18 of 2018 whereby, the mother was appointed as a guardian.

6. Based on the memo of compromise, the learned Principal District Judge has passed an order on 16.12.2022. The operative portion are given below:-

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In the result this petition is allowed, No cost.

- The petitioner - Reena saha is hereby appointed and declared as natural guardian of the minor Atharvan.C.Karthiketyan.
- The petitioner is entrusted with the permanent custody of the Minor until he attains majority.
- The compromise memo shall form part and parcel of the decree.

7. The memo of compromise signed by both the parties is marked as Ex.C1.

8. The learned counsel for the petitioner produced the copy of the Ex.C1 namely Memorandum of Compromise between the parties entered upon on 08.12.2022 and relied upon class (6) is as follows:-

"6. It is submitted that both the parties agree that in case of breach of any of the above terms and conditions, the petitioners can approach the courts for redressal and both the parties agree that the jurisdiction of the court shall be The Hon'ble Madras High Court."

9. The learned counsel for the respondent-wife contended that all the



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parties father, mother and minor are residing outside the territorial jurisdiction of the Original Side of this court. Furthermore, also contended that already there is a Guardian O.P.namely G.W.O.P.No.38 of 2018 was contested before the learned Principal District Judge, Chengalpet.

10. On mediation, a compromise memo was entered and an order has already been passed giving custody of the minor to the mother and hence for altering terms of the condition it could be appropriate to refer the matter to the very same Principal District Judge Court since the terms of the visitation would not be complied with due to the change of circumstances namely boy is not willing and not the mother. Judgment of the full bench regarding maintainability of G.W.O.P.No.before this Court original jurisdiction kept in mind.

11. After perusing the order passed in G.W.O.P.No.38 of 2018 dated 08.12.2022 and also taking note of the class contained therein at class (6) and more so because of the minor is residing within the jurisdiction of the Principal District Court, Chengalpat and it is also very closer to the boy so that the learned Principal District Judge could have better opportunity to personally interact with the minor to arrive at the interest of the minor which is the paramount consideration for deciding the G.W.O.Ps and all the parties



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are living very closely in the Chengalpet District and hence on the entirety of the circumstances more so keeping the paramount consideration of the welfare of the child in mind.

12. Hence, on the special factual matrix of this case as stated supra keeping the welfare of the minor in mind, I am inclined to pass the following order:-

(i) These applications are *closed*.

(ii) Since there is already an order by the learned Principal District Judge in G.W.O.P.No.38 of 2018 and now they seek for variation of the terms of visiting rights and the minor have residing closer to the learned Principal District Judge, Chengalpet area keeping in mind the welfare of the child, I find that this Original Petition is transferred to learned Principal District Judge Court, Chengalpet.

(iii) The Registry is directed to transfer the papers within a period of three weeks from the date of receipt of a copy of this order and to re-number and issue summons to the parties and to decide the matter in accordance with law.

.....08.2024

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