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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.01.2024

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.Nos.656 & 933 of 2018
and
C.M.P.Nos.5852 & 7641 of 2018

C.M.A.No.656 of 2018

E.Jayasudha
W/o. Late Elavarasan
No.86, Aathora Street
Royandapuram Village & Post
Thandarampattu Taluk
Tiruvannamalai District 606 708 ... Appellant

Vs.

S.Kumaresan
S/o.Subramani
No.88/1A, Alagapuri
Elavarasan Rice Mill
Bangalore Main Road
Chengam
Tiruvannamalai District ... Respondent

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Order and Decreetal Order passed in G.W.O.P.No.6 of 2013 dated 16.02.2018 on the file of the District and Sessions Court, Tiruvannamalai.

For Appellant : Mr.S.Ambigapathi

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For Respondents : Dr.R.Gouri

C.M.A.No.933 of 2018

S.Kumaresan
S/o.Subramani
No.88/1A, Alagapuri
Elavarasan Rice Mill
Bangalore Main Road
Chengam, Thiruvannamalai District ... Appellant

Vs.

E.Jayasudha
W/o. Late Elavarasan
Royandapuram Village & Post
Thandarampattu Taluk
Tiruvannamalai District 606 708 ... Respondent

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the portion of the Judgment and Decree dated 16.02.2018 made in G.W.O.P.No.6 of 2013 dated 16.02.2018 on the file of the District and Sessions Court, Tiruvannamalai, declining the relief of granting a decree for custody of the child Hashinisri to the Appellant as guardian of minor child.

For Appellant : Dr.R.Gouri

For Respondents : Mr.S.Ambigapathi

C O M M O N J U D G M E N T

These appeals have been filed against the Judgment and Decree dated

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16.02.2018 made in G.W.O.P.No.6 of 2013 on the file of the District and Sessions Court, Tiruvannamalai,

2.The minor Hashinisri born to one Elavarasan and Jeyasudha on 06.11.2012. Elavarasan died on 16.07.2013 and Jeyasudha is the legally wedded wife of Elavarasan and Hashinisri is the legitimate daughter of them. After the death of Elavarasan, Kumaresan, who is the father of deceased Elavarasan has filed GWOP.No.6 of 2013 seeking for the appointment of guardianship to the granddaughter, who was aged about 1½ years at the time of the Petition. The mother of the minor has also filed counter statement before the Court below.

3.During the trial the paternal Grandfather was examined as PW1 and one Vijaya was examined as PW2. Birth certificate of the minor Hasinisri was marked as Ex.P.1, Death certificate of the deceased Elavarasan was marked as Ex.P.2 and LIC policy in respect of minor Hasinisri was marked as Ex.P.3. The Mother was examined as RW1.

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4.After considering the oral and documentary evidence, it is seen that the date of birth of the minor Hasinisri is 06.11.2012 and after considering all the facts, the Court below has come to the conclusion that the interest of the child will be well served if the custody of the child is fixed with the Mother and accordingly, dismissed the GWOP with an observation that the grandparents has visiting rights on every Sunday between 09.00 am and 05.00 pm. Aggrieved against the said order, both the grandparents as well as Mother has filed the Appeals.

5.Heard the rival submissions made by the learned counsel on either sides.

6.Learned counsel for the Mother viz., Appellant in CMA.No.656 of 2018 would state that the minor child is now 12 years old and the grandparents are not visiting the child for the last three to four months.

7.After going through the evidence of PW1 and RW1, I find that the Court below has rightly come to the conclusion, taking into paramount

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consideration viz., welfare of the child, that the child has to be with the Mother viz., Jeyasudha and rejected the relief sought for by the granddaughter and since the minor is aged below 18 years, the visitation right was granted to grandparents. Hence, I find that there is no error in the order passed by the learned District and Sessions Judge, District and Sessions Court, Tiruvannamalai.

8.Accordingly, these Appeals are dismissed, confirming the Order and Decreetal Order passed in G.W.O.P.No.6 of 2013 dated 16.02.2018 on the file of the District and Sessions Court, Tiruvannamalai. Consequently, connected Miscellaneous Petitions are closed. Further, visitation right of the grandparents shall be continued till the minor attains majority.

29.01.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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RMT.TEEKAA RAMAN.J,

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To
The District and Sessions Judge
the District and Sessions Court
Tiruvannamalai.

C.M.A.Nos.656 & 933 of 2018
and
C.M.P.Nos.5852 & 7641 of 2018

Dated: 29.01.2024

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