



WEB COPY



CMA.No.2807 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J. NISHA BANU
&
THE HONOURABLE MR.JUSTICE P.DHANABAL**

**C.M.A.No.2807 of 2023 &
CMP.No.25509 of 2023**

D. Santhanakrishnan	...	Appellant
Vs.		
G.S.Harina Dhevi	...	Respondent

Civil Miscellaneous Appeal filed under section 19 of Family Courts Act praying to set aside the order dated 09.06.2023 passed in I.A.No.1 of 2023 in HMOP.No.3082 of 2022 by the III Addl. Family Court, Chennai, in so far as it restricts the visitation rights of the petitioner to twice in a month at the children Care Centre attached to the Family Court.

For Appellant	: Ms. C. Ramapriya
For Respondent	: M/s.Sudha Ramalingam

JUDGMENT



CMA.No.2807 of 2023

(Order of the Court was made by J.Nisha Banu.J.)

WEB COPY

This Civil Miscellaneous Appeal is preferred by the appellant/father challenging the order dated 09.06.2023 passed by the III Additional Family Court, Chennai in I.A.No.1 of 2023 in HMOP.No.3082 of 2022, insofar as it restricts his visitation rights to see his minor son by name, S.Tanav Krishnan, twice in a month at Children Care Centre attached to Family Court, Chennai.

2.The learned counsel for the appellant submitted that during the proceedings in I.A.No.1 of 2023, the Family Court permitted the appellant/father to visit his minor son once in a week at Anna Nagar Tower Park as an interim arrangement which was taken place between February, 2023 and June, 2023. Both the appellant and son were able to spend quality time together and enjoyed each other's company. The appellant also showered his love and affection on the son which was equally reciprocated by the son. However, the Family Court restricted the visitation of the appellant/father to his son, twice a month, within the Family Court premises at Children Care Centre, without assigning any reason much less valid reason, by the order impugned herein, which is liable to be set aside.



CMA.No.2807 of 2023

WEB COPY

3.The learned counsel for the appellant further submitted that the son should get the care and affection of the father in a conducive environment, whereas, Child Care Centre attached to the Family Court is a public place, crowded with people and therefore, the order so passed by the Family Court would affect the bonding between the father and son. It is also submitted that no medical record pertaining to the son, evidencing any infection or the doctor's opinion or advice was produced and hence, the appellant prayed to see his son atleast once in a week for a minimum duration of two hours in any other place other than Child Care Centre, pending disposal of the HMOP.

4.Per contra, the learned counsel for the respondent/mother submitted that the respondent was forced to leave the matrimonial house on 05.07.2021 fearing the safety of herself and the son, due to the abusive behaviour of the appellant, who had physically assaulted her and threatened to snatch the child from her. However, during the proceedings of the application, as per the direction of the Family Court, the respondent facilitated the appellant to see the son once in a week between 04.00 pm and 06.00 pm at Anna Nagar Tower Park, Chennai. However, the child suffered an infection and the doctor



CMA.No.2807 of 2023

advised the respondent to avoid crowded places for further exposure to infection. Taking note of the same, the Family Court rightly restricted the visitation rights of the appellant by the order impugned herein, which does not require any interference by this court.

5. Heard both sides and perused the materials available on record.

6. The relationship between the appellant and the respondent as husband and wife, is not disputed. It appears that the appellant filed a petition in HMOP No. 3082 of 2022 seeking divorce. During the pendency of the same, he preferred an application seeking permission to visit his minor son twice a week at a mutually convenient place and time pending disposal of the HMOP. In the said application, an interim arrangement was ordered, as per which, the appellant/father visited the son on Tuesday at Anna Nagar Tower Park, Chennai between 4.00 p.m. and 6.00 p.m., on 13.02.2023, 21.02.2023, 28.02.2023, 07.03.2023 and 21.03.2023. Thereafter, the Family Court allowed the said application in part, by permitting the appellant to see his son twice in a month on the first and third Saturday of every month from 10.00am to 12.00 noon at the Children Care Centre attached to Family Court, Chennai. Feeling



CMA.No.2807 of 2023

aggrieved, the appellant is before this court with the present appeal.

WEB COPY

7.It is the specific contention of the learned counsel for the appellant that the son should get the care and affection of the father in a conducive environment, whereas the Child Care Centre is a place crowded with people and hence, the order impugned herein would affect the bonding between the father and son.

8.On a perusal of the order impugned herein, it is evident that as per the interim arrangement ordered by the Family Court, the appellant visited his son in a public place once in a week. However, it was reported by the respondent / mother that in view of the said arrangement, the child suffered an infection and she was advised to avoid crowded place for further exposure to infections. Considering the same, the Family Court permitted the appellant to visit his son at Child Care Centre attached to Family Court twice a month between 10.00am to 12.00 pm, while allowing the application seeking visitation rights. This court is of the opinion that in the matter of custody of a minor child, paramount consideration is welfare of minor and not rights of the parents. Taking note of the age of the child, who is now 3 years old, no medical



CMA.No.2807 of 2023

evidence is required to substantiate the representation so made by the respondent / mother. Hence, there is no reason much less valid reason made out by the appellant to interfere with the order of the Family Court, restricting the visitation rights of the appellant.

9.In view thereof, this appeal deserves to be dismissed as devoid of merits and is accordingly dismissed. No costs. Consequently, the connected CMP.No.25509 of 2023 is closed.

[J.N.B.,J.] [P.D.B.,J.]
10.06.2024

Index: yes/no
Internet:yes/no
msr
To
The III Addl. Family Court, Chennai

J. NISHA BANU, J.
&
P.DHANABAL, J.

msr



WEB COPY



CMA.No.2807 of 2023

**C.M.A.No.2807 of 2023 &
CMP.No.25509 of 2023**

10.06.2024