



CRP No.4045 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP No.4045 of 2024 &
CMP.No.22243 of 2024

Gidijala Harika : Petitioner

versus

Gottimukkala Sai Krishna : Respondent

Prayer: Petition filed under Article 227 of the Constitution of India seeking to set aside the order dated 17.08.2024 in I.A.No.3 of 2023 in OP.No.4681 of 2021 on the file of the VI Additional Judge, Family Court, Chennai.

For Petitioner : Mr.Ilamugil for
Mr.J.Deliban

ORDER

This civil revision petition is at the instance of the wife. O.P.No.4681 of 2021 has been presented by the father seeking custody of his son. The



CRP No.4045 of 2024

petitioner married the respondent on 11.05.2014 at Vijayawada. From the wedlock, a child was born on 20.12.2016. Due to disputes and differences, the parties separated.

2. The wife has initiated M.C.No.212 of 2019 seeking maintenance. Subsequently, the husband presented GWOP.No.4681 of 2021. Both the proceedings are said to be pending before the VI Additional Family Court at Chennai. The father filed an application seeking interim custody of the child in I.A.No.2 of 2022. The Family Court did not grant interim custody to the father. However, it granted an order of visitation for the respondent/father on third Saturdays of every month between 10 am and 12 pm at the Child Care Centre situated inside the Family Court premises, till the disposal of the main petition.

3. Subsequently, the respondent/father took out an application to modify the said order. He pleaded that he is a permanent resident of Hyderabad and as the child is in Chennai, he sought for a modification that he be permitted to see the child through video conferencing on every



CRP No.4045 of 2024

Saturday and Sunday during evening hours. This application was numbered as I.A.No.3 of 2023. The learned Trial Judge issued notice to the respondent/wife. She made an endorsement that she has no counter in the said application.

4. Considering the averments made in the petition, the learned Trial Judge allowed the application as prayed for. Hence, this revision.

5. I have heard Mr.Ilamugil for Mr.J.Deliban for the civil revision petitioner.

6. Mr.Ilamugil argues that there is no provision in law to modify the order passed by the Family Court on 15.09.2022. He would state that in case the father was aggrieved, he should have challenged the said order, instead he moved an application for modification. He adds that though the wife said no counter to the said application, this was because she was confident that the petition was not maintainable. He submits that maintainability was argued before the learned Trial Judge, yet the impugned



order came to be passed.

7. I have carefully considered the submissions of Mr.Ilamugil.

8. By the very nature of things, an order passed pending disposal of an application for custody and in fact in certain cases, the order in custody itself are interim in nature. Such orders are passed keeping in mind “the best interest of the child”. By keeping the child away from the father, there is a every possibility that the child will develop what is now known as “parental alienation syndrome”. Taking that into consideration, the learned Trial Judge passed an order in I.A.No.2 of 2022 permitting visitation.

9. Under Section 12 of the Guardians and Wards Act, 1890, the Court has the power to pass such interim orders as may be necessary from time to time. Being an interim order, it does not decide on the rights and the liabilities of the parties. It is always open to the court to modify an interim order that has been passed by it earlier. Therefore, the plea of Mr.Ilamugil that the Court does not have the power to modify its order contradicts the very provision itself.



CRP No.4045 of 2024

WEB COPY

10. The Court has not modified the order to the detriment of the civil revision petitioner. All it has directed is that the father might interact with the child through video conferencing. The reason is very obvious. It would be well nigh impossible for the father to visit the child on every weekend from Hyderabad. With improvement in technology, the learned Trial Judge has taken that difficulty into consideration and permitted interaction through video conferencing.

11. At this stage, Mr.Ilamugil points out that the child is suffering from hyperactivity and it would not possible for the mother to make the child to sit in one place to use the smart phone.

12. I have to take note of the fact that there is nothing on the record to show that the child is suffering from the said disability. In fact since it is an interlocutory order, it is always open to the parties to point out to the Court the difficulties they are encountering while implementing its order and seek for modification in the changed circumstances. Suffice it to state that I do



CRP No.4045 of 2024

WEB COPY

not find any error in the order of the learned Trial Judge permitting video conferencing.

13. In the light of the above discussion, as I conclude that the learned Trial Judge has the power to modify its earlier order, this revision is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

03.10.2024

nl

Index : Yes/No
Speaking Orders/Non Speaking orders
Neutral Citation : Yes/No



WEB COPY



CRP No.4045 of 2024

To

The VI Additional Judge, Family Court,
Chennai.



WEB COPY



CRP No.4045 of 2024

V.LAKSHMINARAYANAN, J.

nl

CRP No.4045 of 2024

03.10.2024