



C.R.P.No.3889 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE P. DHANABAL

C.R.P.No.3889 of 2022

N.Menagha

... Petitioner

vs.

R.G.Nhaveenraj

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Final order dated 21.10.2019 in I.A.No.26 of 2019 in H.M.O.P.No.22 of 2018 on the file of the Sub Court, Avinashi.

For Petitioner : Mr.D.Balachandran

For Respondent : Mr.V.Sairam

ORDER

This Civil Revision Petition has been filed by the petitioner, challenging the order, dated 21.10.2019 passed in I.A.No.26 of 2019 in H.M.O.P.No.22 of 2018, by the Sub-Court, Avinashi, wherein, the petitioner herein has filed a



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petition before the Trial Court for visit her children under section 26 of Hindu Marriage Act. In the said application, the Trial Court has directed the petitioner to visit the children on last Sunday of every English calender month at Avinashi Lingeshwarar Temple from 10.00a.m. To 05.00p.m.

2. Aggrieved by the said order, the present Civil Revision Petition has been filed.

3. The case of the petitioner is that the petitioner is the wife of the Respondent and their marriage was solemnized on 24.05.2002 at Coimbatore. Due to wedlock she gave birth of two female children namely Akshitha and Ramithashree. Thereafter, due to some misunderstanding, both are residing separately and she filed a petition for restitution of conjugal rights and the same is pending. The respondent also filed petition for seeking divorce with false allegations. The respondent not even allowed the petitioner to see her children. The respondent harassed the petitioner by locking her inside the house and the respondent and his mother not even allowed the petitioner to sit in front of them. There was a Panchayat held by the elders of the family, but the said Panchayat was ended in vain. The respondent is having custody of two



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female children and the respondent refused to permit the petitioner to see her children. Therefore, the petitioner has filed this petition to permit the petitioner to see her children on every Sunday at any common place.

4. The case of the Respondent is that the petitioner made false and frivolous allegations as against the Respondent and the petition is not maintainable and liable to be dismissed in limini. This petition is filed only to delay the proceedings which is pending from the year 2015. The petitioner neglected the respondent and the two female children. Now after four years, she filed this present petition with ill-motive. Already, the respondent stated in his petition that the petitioner harassed the children and without considering the education and future of the children, the petitioner wantonly left the matrimonial home and neglected her children. The petitioner filed this present petition with ill motive. Therefore, this Civil Revision Petition is liable to be dismissed.

5. Before the trial Court no oral or documentary evidences adduced on either side. The trial Court after considering the facts of the case, partly allowed the Interlocutory application and directed the petitioner to visit and



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see her two female children on last Sunday of every English calendar month at Aviniashi Lingeshwarar Temple from 10.00a.m. To 05.00p.m. Aggrieved by the said order, the present Civil Revision Petition is filed.

6. The learned Counsel appearing for the petitioner would contend that the petitioner is the wife of the Respondent and due to wedlock they have got two female children. Now, they are under the custody of the Respondent. The Respondent and his mother harassed the petitioner and thereby she left the matrimonial home. The respondent does not allowed the petitioner to see her children and thereby she filed a Petition before the Trial Court. The trial Court partly allowed the petition and permitted the petitioner to visit and see her two female children on last Sunday of every English calendar month at Aviniashi Lingeshwarar Temple from 10.00a.m. To 05.00p.m. But the petitioner sought for visitation right once in a month at Salem. Therefore, the order passed by the Trial Court is liable to be modified.

7. The learned Counsel appearing for the Respondent would contend that the petitioner is residing at Salem and the two children are studying school at Coimbatore. Already, the petitioner filed a Petition to visit her children and



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the trial Court passed orders that on last Sunday of every English calendar month at Avinashi Lingeshwarar Temple from 10.00a.m. To 05.00p.m the petitioner can visit her children. Now, the petitioner want to modify the said order and want to see her children at Salem. It will cause much inconvenience to the children, they have to travel more than 300kms to and fro and thereby the children would get tired and whole day of the children will spoil. Therefore, the order passed by the Trial Court is in accordance with law and the present Civil Revision Petition is liable to be dismissed.

8. This Court heard both sides and perused the records.

9. It is the admitted fact that the two female children are under the care and custody of the Respondent and they are now staying at Coimbatore. The trial Court after elaborate discussion partly allowed the petition and permitted the petitioner to visit her two female children on last Sunday of every English calendar month at Aviniashi Lingeshwarar Temple from 10.00a.m. To 05.00p.m. Therefore, the order passed by the Trial Court is well reasoned order. The Trial Court after taking into consideration of welfare of the two minor children and their studies passed the reasoned order. Already trial Court



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passed order to produce the children at Avinashi Lingeshwarar Temple, now the petitioner want to produce the children at Salem. As rightly contended by the respondent's counsel the children have to travel more than 300Kms per day and it certainly cause inconvenience to the children. At the same time, the petitioner can see her children at Avinashi and no prejudice will cause to both the parties. It is well settled law that as far as the custody of the children is concerned the paramount consideration is the welfare of the child. Therefore, the order of the Trial Court is proper and in accordance with law.

10. Therefore, there is no any infirmity or perversity in the order passed by the Trial court and it does not warrant any interference.

11. In view of the above said discussion, there is no merits in the present Civil Revision Petition. Therefore, this Civil Revision Petition is liable to be dismissed. Accordingly, this Civil Revision Petition is dismissed. No costs.

gvn

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Index :Yes/No

Internet : Yes/No

Neutral Citation :Yes/No



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To:

- 1.The Sub Court, Avinashi.
- 2.The Section Officer,
V.R.Section,
High Court of Madras.



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P. DHANABAL, J.

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