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C.R.P.(PD).No.4504 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN, J.

C.R.P.(PD).No.4504 of 2024
and
C.M.P.No.25112 of 2024

Padmaja @ Pavithra
Represented by Power of Attorney Agent
V.Seshadiri

... Petitioner/Petitioner

..Vs..

B.Jagannath

... Respondent/Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.08.2024 made in I.A.No.04 of 2024 in H.M.O.P.No.5214 of 2021 on the file of the VI Additional Family Court, Chennai.

For Petitioner : Mr.S.Gunaseelan

ORDER

This Civil Revision Petition arises against the order passed by the learned VI Additional Family Court at Chennai in I.A.No.04 of 2024 in H.M.O.P.No.5214 of 2021 dated 30.08.2024.

2. The civil revision petitioner herein is represented by her power of



C.R.P.(PD).No.4504 of 2024

attorney. The petitioner has initiated H.M.O.P.No.5214 of 2021 invoking Section 13(1) (ia) and 13(1) (ib) of the Hindu Marriage Act. The petitioner married the respondent on 29.05.2015. From the wedlock, a girl child was born on 14.06.2016. Subsequently, due to disputes and differences, the parties have separated and they are now meeting only in Court.

3. Pending H.M.O.P.No.5214 of 2021, the respondent/husband, took out an application in I.A.No.04 of 2024 seeking for interim custody of the child. He pleaded that he has also initiated G.W.O.P.No.294 of 2024 on the file of the II Additional Family Court at Chennai.

4. The learned VI Additional Family Judge received a counter from the petitioner. She denied interim custody of the child, despite the fact that the respondent/husband pleaded that the mother has left the child in India and has gone to Canada. However taking into consideration the fact that the father is the natural guardian of the child, the learned Judge granted visitation rights.

5. Aggrieved by the same, this revision at the instance of the wife.



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6. I heard Mr.Gunaseelan for the civil revision petitioner.

7. Mr.Gunaseelan, invited my attention to paragraph No.7 of the order passed by the learned Judge to press the point that the child is not interested to see the father. He further points out that the child is settled with her maternal grandparents and if she were to be uprooted, the child will suffer.

8. While agreeing with Mr.Gunaseelan that the child need not be uprooted from the comfortable environment in which she is currently staying, I am not in a position to agree with him that the father, who is the natural guardian of the child, should not even visit and get to know the child. If the child grows up without knowing as to who her father is, there is every possibility that at a later date, she will develop “parental alienation syndrome”.

9. It is in the best interest of the child that she knows as to who her parents are. The mother and father can continue in litigation with respect to their issues. However, the issue which has come from the marriage should not suffer on account of these disputes. The learned Judge has balanced the interest of the petitioner and the respondent and has only granted visitation



rights to the father and that too, only twice a month.

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10. Mr.Gunaseelan, points out that the child is to be produced under the Child Care Centre on the 1st and 3rd Saturdays which would put the child's to inconvenience as she is attending school. Even on this point, I am unable to agree with Mr.Gunaseelan. A careful perusal of the order shows that the visitation has been granted twice every month at a mutually acceptable place and time. If the mutually acceptable place and time cannot be worked out, only then, there has been a direction to produce the child before the Child Care Centre of the Family Court on 1st and 3rd Saturdays. Therefore, the fear of Mr.Gunaseelan that the child will have to loose her school education in case, the order of the Court has to be complied with is unfounded.

11. It is always open to the maternal grandparents to take the child to a place convenient to both the parties at a time convenient to both, in accordance with the first part of the order. Only in default of the first part of the order, the child is directed to be produced before the Family Court.



C.R.P.(PD).No.4504 of 2024

12. I do not find any reason to interfere with the said order. It is balanced and takes into account the best interest of the child. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition stands closed.

11.11.2024

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

V.LAKSHMINARAYANAN, J.

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C.R.P.(PD).No.4504 of 2024

C.R.P.(PD).No.4504 of 2024

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