



C.R.P.[NPD].No.4600 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 15.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4600 of 2024

Srividhya Sivaramakrishnan

. . . Petitioner

Versus

R.Karthik

. . . Respondent

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the direction made by the VI Additional Family Court made in its Order dated 10.07.2024 passed in E.P.No.7 of 2023 in I.A.No.2 of 2019 in O.P.No.2936 of 2017 that the petitioner should produce the minor son at the time of payment out.

For petitioner : Ms.S.P.Arthi

ORDER

Challenging the Order of the execution Court in Execution Proceedings in E.P.No.7 of 2023 directing the petitioner to produce the child at the time of payment out, the present Civil Revision Petition has been filed.

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2. It is the case of the petitioner that the respondent filed O.P.No.3916 of 2017 for divorce and also filed an application in I.A.No.3813 for visitation right. However, the main Original Petition has been withdrawn by the respondent. Therefore, the visitation Ordered in the interim application has also been dismissed along with the main Original Petition. In the meanwhile, the petitioner has filed an application in I.A.No.2 of 2019 for interim maintenance of the minor child. The same has been ordered. As the amount has not been paid, the petitioner filed an Execution Petition in E.P.No.7 of 2023, in which the respondent was directed to deposit a sum of Rs.5,51,000/-. According to the revision petitioner that amount has been now deposited. However, while passing an Order for deposit, the petitioner was directed to produce her minor son at the time of payment out. It is the contention of the learned counsel for the petitioner that, the respondent is not in India and he is represented either by his counsel or power agent, therefore, direction that the child to be produced at the time of payment out will not serve any purpose. If at all the respondent wants to see the child, he has to file an application for visitation right and there is no bar under law even after disposal of the main Original Petition. Such a procedure has not been resorted by



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the respondent. Hence, the contention of the learned counsel for the petitioner that when the respondent is not in India, directing the child to be present at the time of payment out cannot be sustained.

3. As the issue is only with regard to the direction of the Family Court for production of the minor son at the time of payment out, no notice is required to the respondent.

4. Heard the learned counsel for the petitioner and perused the entire materials available.

5. Admittedly, the application filed for visitation right has already been dismissed when the main Original Petition filed by the respondent has already been withdrawn. If at all the respondent intend to have the custody of the minor child, he can file an appropriate application for the custody of the child. Instead of doing so, the Family Court cannot direct the production of the child at the time of payment out, particularly, when the respondent is not in India. In such view of the matter, the direction to produce the minor child at the time of payment out alone is



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set aside. The trial Court is directed to release the fund to the revision petitioner since the maintenance is towards maintenance of the minor child.

6. With the above direction, this Civil Revision Petition is allowed. No costs.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

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