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C.R.P. No.4675

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P. No.4675 of 2024
& CMP No.26162 of 2024

R.Rekha

Petitioner

Vs

G.Govindaraj

Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the V Additional Family Court in Chennai in I.A.No.4 of 2024 in OP No.2119 of 2020 dated 30.08.2024.

For Petitioner : Mr.V.S.Kesavan

For Respondent : Mr.D.Meganathan

ORDER

This Civil Revision Petition challenges the order of the learned V Additional Family Court, Chennai in I.A.No.4 of 2024 in O.P.No.2119 of 2020, dated 30.08.2024.

2.O.P.No.2119 of 2020 is a proceeding initiated for divorce invoking Section 13(1)(ia) of the Hindu Marriage Act. The civil revision petitioner is the wife and the respondent is the husband. They married each other on 30.11.2006. From the



wedlock, two children were born to them. On account of several issues that arose between the parties, they separated. The wife approached the Family Court as aforesaid seeking for divorce in October 2020. The husband has filed a counter. He sought for restitution of conjugal rights. The parties are also litigating before the Magistrate Court dealing with the proceedings under the Domestic Violence Act.

3.The husband took out an application for seeking for visitation rights to meet his two children, considering the old age of his parents. He pleaded that his father, is aged about 77 years and his mother, is aged about 67 years. He added that the father is suffering from Subarachnoid Hemorrhage (SAH), which is life-threatening and on account of neurological problems, he is unable to move out of his residence. He pleaded that, his father had expressed a desire to see his grandchildren. The husband added that he is paying the fees for the children without any default. Hence, the application was filed in order to meet and interact with the children and to set right the alienation, that he alleged that the children are suffering from.

4.The wife resisted the application by filing a counter. She pointed out that she left the matrimonial home on account of domestic violence and cruelty, that was meted out to her.



5.The learned Trial Judge, after consideration of the petition and counter, permitted the father to take children to his house on 1st and 3rd Sundays of every month between 2 p.m., and 5 p.m. He also directed that, in case the children are having any examination on the ensuing day, the 1st and 3rd Sundays could be exchanged to the 2nd and 4th Sundays. He also directed, the father not to speak anything negative about their mother, to the children. Aggrieved by the same, the mother is on revision before this Court.

6.I heard Mr.V.S.Kesavan, for the civil revision petitioner and Mr.D.Meganathan, for Mr.Chandrasekaran, for the respondent.

7.Mr.V.S.Kesavan, invites my attention to Paragraph No.17 of the HMOP to point out the manner in which the husband had treated the civil revision petitioner and therefore, he pleads that the husband is not entitled for visitation rights. He further adds that the father has not spent even a single paise on his children in the long period of fourteen years. It was only when the HMOP was listed for final disposal, he adds that the father has woke up and filed this petition on false grounds.

8.Per contra, Mr.D.Meganathan pleads that the father has been paying the fees for the children all these years. He states that the father was gainfully employed with Yamaha Motors Limited. Subsequently, he lost job and today he is eking out a living



with whatever that he is earning. He pleads that for the reasons said-forth in the affidavit in I.A.No.4 of 2024, the father wants to see the children.

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9.I carefully considered the submissions of the both sides.

10.The relationship between the parties is not dispute, neither is the fact that the children were born to the petitioner and the respondent. The civil revision petitioner wants to prevent the father from seeing his children. It is not a case where the father is seeking for custody of the children. He only wants to get to know his children who are in their teens. In addition, he points out that his father is afflicted with a life threatening disease and is not in a position to move about. It is but natural that the grandparents would love to spend some time with their grand children. This is more so, because the grand parents have not seen the children atleast for the past five years.

11.Therefore, the reasoning of the learned Trial Judge following the judgment in *Yashita Sahu vs. State of Rajasthan & Others* in *AIR 2020 SC 577*, cannot be found fault with. At the same time, I have to take into consideration the submissions of Mr.V.S.Kesavan, that the father is not spending a single penny for the children.

12.Mr.D.Meganathan, pleads that the father is an unemployed and he is not in a



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position to make any substantial payment towards the children's expenses. However, the father cannot seek to spend time with the children alone without even paying for their expenses. Therefore, in addition to the condition that has been imposed by the learned Trial Judge in impugned order, an other clause viz., in Clause No.5, shall be included viz., directing the father to pay a sum of Rs.15,000/- per month for both the children. In all other respects, the order is sustained. In other words, the respondent husband will be entitled to take the children on 1st and 3rd Sundays from the residence of the civil revision petitioner, and spend quality time with them and shall drop them at the residence of the civil revision petitioner at 5 p.m.

13. With the above additional condition, this civil revision petition is dismissed.

No Costs. Consequently, connected miscellaneous petition is closed.

22.11.2024

Index : Yes/No

Neutral Citation : Yes/No

Neutral Citation : Yes/No

Speaking/Non-Speaking Order

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V. LAKSHMINARAYANAN, J.

SSR

To
The V Additional Family Court in Chennai.

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