



A.No.955 of 2024 in O.P.No.78 of 2024

Orders Reserved on 27.08.2023	Orders Pronounced on 30.08.2024
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A.No.955 of 2024

in

O.P.No.78 of 2024

RMT. TEEKAA RAMAN., J.

In the matter of Guardian and Wards Act in connection with minor child G.Dheeshithan (D.O.B.02.01.2013).

2. The petitioner is the father and the respondent is the mother.

3. As per the petition, the marriage between the petitioner and the respondent was solemnized on 29.01.2012 according to Hindu rites and Customs at Sri Sudharsana Mahal, No.19, Gandhi Road, Srirangam and for sometime, both the parties living together at Pavalanthangal, Chennai. The minor boy was born on 2.1.2013. It is suffice to say, the wife has filed H.M.O.P.No.80 of 2015 for divorce before the Sub-Court, Tambaram.

4. After contest, the learned Sub-Judge, Tambaram by an order dated 18.08.2017 has held that the respondent-wife was subjected to mental cruelty as defined under Section 13(1)(i-a) of the Hindu Marriage Act and ordered for resolution of marriage and regarding the visitation rights, the respondent-wife was permitted to have the custody of the child and regarding visitation it shall be mutually decided time and place at the time between the parties.



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5. It is represented from the Bar that there is no appeal against the order and the decree to divorce has attained finality.

6. The present application is filed by the petitioner-father for appointing him as a legal Guardian of the minor boy and permanent custody of the minor child. The address of the petitioner is at Madipakkam which is outside the territorial jurisdiction of this Court. The address of the respondent-wife is i.e., the mother of the child is also outside territorial jurisdiction of this Court.

7. It is averred that after the dissolution of marriage, the respondent-wife has re-married.

8. The learned counsel for the respondent-wife stated that there is no children through the second marriage.

9(a). Admittedly, the marriage was solemnized at Srirangam, both the petitioner and the respondent along with the minor son resided outside the jurisdiction of this Court.

(b) Judgment of the full bench regarding the maintainability G.W.O.P.No.before this Court in the original jurisdiction is kept in mind.

10. Taking into consideration that the minor boy is with the respondent-mother which are residing in place which is closer to the



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Chengalpet District Court and all the parties namely father, mother and the minor child are living near the Principal District Court, Chengalpet.

11(a). From the angle of the minor boy who is now 11 years old studying in a C.B.S.E. school, I find that the paramount consideration being the welfare of the child, it could be appropriate to relegate the parties to the nearest jurisdiction Court (viz) Principal District Court, Chengalpet.

(b) This Court has taken note of the basic fact that the minor has to travel a long way to this Court. Thus, appearance before the Principal District Judge Court is also taken into consideration.

(c) Both the Original Side of this court as well as the Principal District Judge Court are having the concurrent jurisdiction as per the full bench judgment of this Court. The "forum convenience" from the angle of the child minor and the parents as well has to be taken into consideration before filing the G.W.O.P. rather the application should not be filed by merely taking advantage of full bench judgment which nearly stated that the jurisdiction entertaining G.W.O.P. is concurrent with the Family Court at the District Headquarters.

(d) In the instant case on the factual circumstances, I find that neither the marriage nor the couple lived within the territorial jurisdiction of the



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Original Side of this Court and even now the respondent-mother along with minor are living closer to the Chengalpet District Court which assumes significance.

12. Hence, on the special factual matrix of this case as stated supra keeping the welfare of the minor in mind, I am inclined to pass the following order:-

- (i) This application is ***closed***.
- (ii) The Registry is directed to transfer the G.W.O.P.No.78 of 2024 to the learned Principal District Judge for disposal in accordance with law.
- (iii) The case papers has to be transmitted to the Court within a period of three weeks from the date of receipt of a copy of this order and on re-numbering, the learned Principal District Judge/Family Court, Chengalpet shall issue summons to both the parties and to decide the lis.

30.08.2024

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RMT. TEEKAA RAMAN., J.

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