



C.M.A(MD)No.118 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2024

CORAM:

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

**C.M.A(MD)No.118 of 2024
and
C.M.P(MD)No.1797 of 2024**

Sugirtha

**...Appellant/Respondent/
Petitioner**

Vs.

Gowtham

**...Respondent/Petitioner/
Respondent**

PRAYER: Civil Miscellaneous Appeal has been filed under Section 19 of the Family Courts Act, 1984 to set aside the fair and decretal order, dated 10.11.2023 passed in I.A.No.03 of 2023 in H.M.O.P.No.239 of 2023 on the file of the Family Court, Karur.

For Appellant : Mr.J.Sathiaraj

For Respondent : Mr.S.Muniyandi



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JUDGMENT

[Judgment of the Court was made by
V.BHAVANI SUBBAROYAN.J.]

Being aggrieved over the order, dated 10.11.2023 passed by the learned Family Court Judge in I.A.No.3 of 2023 in H.M.O.P.No.239 of 2023, the appellant has filed the present Civil Miscellaneous Appeal.

2. The appellant is the wife and the respondent is the husband. The marriage between them was solemnized on 09.09.2021. Thereafter, a female child was born on 06.06.2022. The appellant wife has filed a petition in H.M.O.P.No.239 of 2023 seeking divorce. Pending the said petition, the respondent/husband filed I.A.No.3 of 2023 before the Family Court, Karur seeking visitation rights. The learned Family Court Judge has allowed the said application with a direction to the wife to hand over the child to the husband on every Sunday at 10.00 a.m, to 12.00 p.m., at Kalyana Pasupatheeswarar Temple, Karur. At the time of handing over the child, the husband did not take the child out the temple.



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3. Challenging the said order, the wife has filed the present Civil Miscellaneous Appeal raising various grounds.

4. The learned counsel appearing for the appellant would submit that there is a life threat to the appellant and her child by the respondent. The respondent is working as a doctor and he was not at all ready and willing to have a blissful matrimonial life with the appellant. The respondent was not at all taken care of the child from birth to till date. The said interim application was filed only due to wreak vengeance and to disturb the peace of appellant and her child. The order of the trial Court to hand over the child to the husband on every Sunday at 10.00 a.m, to 12.00 p.m., at Kalyana Pasupatheeswarar Temple, Karur is creates mental agony to the child. The respondent has filed the interlocutory application to deface the prestige and the social status of the appellant rather taking this issue as husband and wife during their matrimonial accord to safeguard their matrimonial relationship. The trial Judge ought to have consider that a separate petition seeking divorce on the ground of cruelty in H.M.O.P.No.236 of 2023 by the appellant and granting the permission to visit the child on this situation only creates an opportunity



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to the respondent to continue the cruelty. Further, the trial Judge failed to consider that there is a life threat to the appellant and her child is main reason for filing divorce petition. Further, the appellant is now residing at Madurai and if the child is taking to Karur the health of the child will be affected and prayed for allowing the appeal by setting aside the order of the Family Judge, Karur.

5. This Court by order, dated 14.03.2024 directed the parties to appear before this Court on 21.03.2024 at 04.30 p.m. As per the order of this Court, today i.e., on 21.03.2024 both parties are appeared before us and we interacted with them. The appellant/wife is not willing to show the child to the husband/respondent.

6. In the petition filed by the respondent/husband that wherein he sought to visitation right atleast once in a week. The child is aged about 1 year 8 months. The appellant is a doctor and the respondent is also a doctor and they are living separately for quite long time. He had stated that from the early pregnancy days the wife and he was staying at Madurai in her parents house and they ill-treated him after the child was



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born and had not neglected the family at any point of time. He would further submit as he is fond of the child he would like to atleast visit the child and enjoy the fatherhood which has been denied till date.

7. Even this Court had taken steps to unite the parties for the interest of the child, but it failed and the appellant stated that always there is a life threat, without any evidence and only orally. As the father is also a natural guardian and he is entitled to have the custody of the child. This Court is inclined to interfere with. It is also painful to note that the parents are not thinking about the child's welfare but prolonging the agony of missing the early childhood act of a child to the other party.

8. Therefore, this Court is inclined to pass the following order only for interest of the child:-

(i) The appellant is directed to take the child to the Karur on every Sunday and hand over to the respondent/husband between 10.00 a.m., to 02.00 p.m., at the place mentioned in the I.A., or any other place in Karur which is convenient due to the summer condition taking into

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consideration of the tender age of the child, for a period of two months and thereafter, hand over the child for alternative weeks till the Guardian Wards Original Petition is decided.

9. With these directions, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(V.B.S.J.) (K.K.R.K.J.)
21.03.2024

Index :Yes/No
Internet :Yes/No
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To

1.The Family Court,
Karur.

2.V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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**V.BHAVANI SUBBAROYAN.J.,
and
K.K. RAMAKRISHNAN.J.,**

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