



C.RP(MD)No.1574 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated: 19.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P(MD)No.1574 of 2024

and

C.M.P(MD).No.9318 of 2024

Praveen
rep., by his power agent

... Petitioner

Vs.,

Elakkiya

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 14.02.2024 made in I.A.No. 22 of 2023 in H.M.O.P.No.23 of 2016 on the file of the Subordinate Court, Pattukkottai, Thanjavur District.

For Petitioners : Mr.D.Rameshkumar

ORDER

The civil revision petition is directed against an order dated 14.02.2024 made in I.A.No.22 of 2023 in H.M.O.P.No.23 of 2016 on the file of the learned Subordinate Judge, Pattukottai, Thanjavur District.



2. Pending the main HMOP, the above Interlocutory Application is made by the petitioner/ husband seeking interim custody of the minor children, who are 11 years old female child and 10 years old male child. The said application is dismissed by the trial Court, as against which, the present civil revision petition is filed.

3. The learned counsel appearing on behalf of the petitioner would submit that the respondent/ mother is working as a Government Doctor and at the same time, running a private clinic and absolutely, has no time at all to take care of the children and it is not in the best interest of the minors to be left in the custody of the respondent/ mother. It is his further contention that the respondent/ mother also prayed for interim maintenance by making false averments. Therefore, the trial Court ought to have considered the application.

4. It can be seen that the petitioner/ father is residing abroad. He is represented in the proceedings only by his power agent. The trial Court considering the ordinary residence of the minor children with the mother and that the father being residing out of India, has dismissed the application. When the parties are in dispute, the children cannot be transplanted and footballed pending the case and therefore, when the children aged about 10 years and 11 years are left to be in the continuing custody of the mother. The same cannot be



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found fault with. If the petitioner is visiting India, he can always move the trial Court for visiting the children and that can be considered at the relevant point of time by the trial Court.

5. With the above observations, the Civil Revision Petition is disposed of.

No costs. Consequently, connected Miscellaneous Petition is closed.

19.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To
1.The Subordinate judge, Pattukottai, Thanjavur District.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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