



C.M.A.(MD).No.925 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD).No.925 of 2023

Prakash Samueal Jebakumar

... Appellant

Vs.

Stella Angel

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act, against the fair order and decree in I.A.No.4 of 2022 in G.W.O.P.No. 138 of 2022 dated 06.04.2023 on the file of the Family Court, Thoothukudi.

For Appellant : Mr.R.Pon Karthikeyan

For Respondent Mr.KA.Ramakrishnan



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J U D G M E N T

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(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**)

This Civil Miscellaneous Appeal has been filed against the order of the Family Court, Thoothukudi in I.A.No.4 of 2022 in G.W.O.P.No.138 of 2022 dated 06.04.2023.

2. The case of the appellant is that the marriage between the appellant and the respondent was solemnised on 05.01.2017, as per Christian Rites and Customs at Power IPC Church, State Bank Colony, Thoothukudi and they were blessed with two children viz., Ivan Santhosh and Benita Mercy. The appellant is working in a private company. Due to misunderstanding between them, she went to her parental home. Therefore, he filed a petition in D.O.P.No.244 of 2021 before the the Family Court, Thoothukudi seeking restitution of conjugal rights against the respondent and the same is pending. Further, the respondent has not allowed the appellant to see the children. Since 2020 he has been denied visitation of his children by the respondent, he filed a petition to appoint him as the guardian of the minor children viz., Ivan Santhosh and Benita Mercy in G.W.O.P.No.138 of 2020 on the file of Family Court, Thoothukudi. He has



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also filed an interim application in I.A.No.4 of 2022 before the trial Court seeking visitation rights and interim custody for at least two days including Sunday. The Family Court vide order dated 06.04.2023, partly allowed the application with certain conditions and permitted him to see the children on 1st and 3rd Saturday of every month before the Counselling Centre attached with the Family Court, Thoothukudi until further orders. Without any valid reason, his prayer seeking interim custody for two days has been rejected. Aggrieved over the same, the appellant has filed this appeal.

3. This Court, vide order dated 05.03.2024, directed the respondent/wife to hand over the children to the appellant / husband on every Saturday morning at 10.00 a.m. at nearby Church to be informed by the counsel for the wife. The appellant/husband is directed to take the children and accompany with them and thereafter hand over the children to the respondent/wife in the next day ie., Sunday at 4.00 p.m. in the same place. Failing which, appropriate action will be taken against the respondent/wife. If the wife is willing to accompany the children she can do so, but shall not prevent the children from being with the father.



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4. Heard the learned counsel for the appellant and the learned counsel for the respondents.

5. This Court, vide order dated 05.03.2024, modified the order of the Family Court, Thoothukudi in I.A.No.4 of 2022 in G.W.O.P.No.138 of 2022 dated 06.04.2023, to the effect that the respondent/wife to hand over the children to the appellant / husband on every Saturday morning at 10.00 a.m. at nearby Church to be informed by the counsel for the wife. The appellant/husband is directed to take the children and accompany with them and thereafter hand over the children to the respondent/wife in the next day ie., Sunday at 4.00 p.m. in the same place. Failing which, appropriate action will be taken against the respondent/wife. If the wife is willing to accompany the children she can do so, but shall not prevent the children from being with the father. It is made clear that the mother to be with the father some time in the Church premises to enable the father to get acquaintance with the children. The said order become final and the visitation right given to the appellant / husband shall continue till the disposal of the G.W.O.P.No.138 of 2022 pending before the Family Court, Thoothukudi.



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6. In the result, the Civil Miscellaneous Appeal is closed. No costs.

[V.B.S.,J.] [K.K.R.K.,J.]
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Index : Yes/No
Internet : Yes/No
NCC : Yes/No

akv

To

The Family Court,
Thoothukudi.



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