



C.M.A.(MD)No.1083 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.07.2024

CORAM

THE HONOURABLE MR.JUSTICE **R.VIJAYAKUMAR**

C.M.A.(MD)No.1083 of 2018
and
C.M.P.(MD)No.11105 of 2018

Balasubramanian

... Appellant

vs.

Kannan Kalirajan

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 47 of Guardians and Wards Act, 1890, to set aside the fair and decreetal order in G.W.O.P.No.102 of 2015, dated 28.06.2018 on the file of the IV Additional District Judge, Tirunelveli, insofar as granting visiting right to the respondent.

For Appellant :Mr.J.Ashok
For Respondent :Mr.J.Barathan



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JUDGMENT

The instant appeal has been filed by the maternal grandfather of the minor child challenging the order passed by the IV Additional District Judge, Tirunelveli, in G.W.O.P.No.102 of 2015.

2.The father of the minor child had filed G.W.O.P.No.102 of 2015 seeking custody from the maternal grandfather. It could be seen from the records that the minor child was born to the respondent herein and one Ambika on 20.11.2006. The said Ambika has passed away on 09.05.2007 leaving behind the minor as a five months old baby. The custody of the minor girl was retained by the maternal grandfather and hence, the father had filed the said application.

3.The maternal grandfather has filed a counter contending that he is having the custody of the child and he is able to maintain his grand daughter.

4.The trial Court, after considering the oral and documentary evidence, had arrived at finding that the minor girl had attained puberty



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in June 2017 and she cannot be left with the custody of the father. The trial Court further found that the maternal grandfather is having family members in his home to take care of the minor and to protect her and the minor girl is undergoing CBSE education under the custody of her maternal grandmother. On the said findings, the trial Court dismissed the application filed by the father granting visitation rights to the father for two hours in a week. Challenging the said visitation right, the maternal grandfather has filed the present appeal.

5.According to the learned Counsel appearing for the appellant, the visitation right should not have been granted to the father in the interest of the minor as it would not be safe to give visitation rights to the father.

6.*Per contra*, the learned Counsel appearing for the respondent contended that as a father, he is entitled to have the visitation rights.

7.I have heard the submissions made on either side and perused the materials records.



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8.It could be seen from the contentions on both parties, the girl is going to attain majority on 20th of November 2024 around five months from today. She is in the custody of the maternal grandfather. Either in the counter filed by the grandfather or in the grounds of appeal, I could not find any legally acceptable reasons to prohibit the father from having visitation rights over his minor daughter. In such circumstances, I do not find perversity in the order granting visitation rights in favour of the father.

9.Considering the fact that the minor girl is about to attain majority in five months time from today and there are no averments, which would disentitle the father from having the visitation rights, this Court is not inclined to interfere with the order passed by the trial Court. The Civil Miscellaneous Appeal stands dismissed as having no merits. No costs. Consequently, connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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The IV Additional District Judge, Tirunelveli.



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R.VIJAYAKUMAR, J.

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