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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1242 of 2023

Subbaiah

... Appellant

Vs.

R.Durga Devi

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed to set aside the fair and decreetal order dated 04.10.2023 passed in G.W.O.P.No.16 of 2021 on the file of the Principal District Court, Thoothukudi, Thoothukudi District.

For Appellant : Mr.S.Kanagarajan for
S.Muthu Malai Raja

For Respondent : Mr.S.Ramasamy

JUDGEMENT

This Civil Miscellaneous appeal is filed by the husband to set aside the fair and decreetal order dated 04.10.2023 in G.W.O.P.No.16 of 2021 on the file of the Principal District Court, Thoothukudi, Thoothukudi District.

2. The appellant husband has filed a petition in G.W.O.P.No.16 of 2021 seeking guardianship. After considering the claim of the appellant husband, the Court below had partly allowed the petition. In the impugned



order the Court below had directed the respondent wife to hand over the child on every Sunday by 8 am to 6 pm and the appellant husband was directed to hand over the child back to the mother by 6 pm. The appellant is not aggrieved by the visitation rights granted by the Court.

3. But the appellant, is aggrieved over that portion of the order where it has held that the appellant cannot be appointed as Guardian of the minor. The contention of the appellant is that he being the natural guardian, he cannot be held as not guardian. Therefore, this Court is of the considered opinion that the father being a natural guardian cannot be held as not guardian and the said finding of the Court below is erroneous and therefore that portion of the order alone is set aside. The remaining portion of the order is hereby confirmed. However, it is made clear that the appellant husband is entitled to visitation rights as stated supra.

4. With this modification, this Civil Miscellaneous Appeal is partly allowed. No Costs.

06.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Principal District Court,
Thoothukudi,
Thoothukudi District.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.1242 of 2023**

06.03.2024