



CMP(MD)Nos.5981 and 5982 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CMP(MD)Nos.5981 and 5982 of 2023
in
CMA(MD)Nos.864 and 865 of 2017

P.Thilagavathy

: Petitioner/Appellant
(in both petitions)

Vs.

R.Karthikeyan

: Respondent/Petitioner
(in both petitions)

Common Prayer:- These Civil Miscellaneous Petitions are filed under Section 151 of the Civil Procedure Code, to re-open the CMA(MD)Nos.864 and 865 of 2017, as per the order of this Court, dated 26/04/2018.

For Petitioner
(in both cases)

: M/s.R.Bhuvaneshvari

For Respondent
(in both cases)

: Mr.K.Gokul



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COMMON ORDER

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(Order of the Court was made by the Hon'ble **P.VELMURUGAN. J.**)

These civil miscellaneous petitions have been filed to reopen the common judgment, dated 26/04/2018 passed by this Court in CMA(MD)Nos. 864 and 865 of 2017.

2.The petitioner in the grand-mother and respondent is the father of the child, who is aged about 11 years and now staying with his father at Pollachi. The mother of the child died and therefore, the respondent, the father of the child, got second marriage and got children through the second marriage. The petitioner is aged about 60 years, who lost her daughter, the mother of the child. While deciding the custody/visitation right, on the basis of the joint compromise memo filed by the parties, this Court passed a common order in CMA(MD)Nos.864 and 865 of 2017, dated 26/04/2018, which reads as under:-

“3.The appellant in both appeals is the grand-mother, and the respondent is the father of the child, subject matter of the above G.W.O.Ps. During the pendency of these appeals, the parties negotiated for a settlement. Accordingly, they arrived at a settlement and entered into a Joint Compromise Memo, dated 26/04/2018, signed by both parties as well as their respective counsels. The terms of the Joint Compromise Memo as well as the Schedule of Properties annexed therewith, reads as follows:-



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1.that both the appellant and the respondent be and hereby agreed that the child namely Tharun Mathesh, who is son of Karthikeyan (Respondent) aged about 4 years will be stayed with his father at his parental home situates in Pollachi in the week days of Monday to Friday;

2.that both the parties be and hereby agreed the child will be handed over by the respondent/father of the child to the Appellant, who is the maternal grand-mother of the child in every week Saturday morning at 8.00 a.m.,10.00 a.m. Subsequently, the respondent will pick up the child from the Appellant Home in every week;

3.that both parties undertake to keep the minor child in good and healthy condition and the respondent undertakes to provide all the necessary vaccinations and medical care periodically;

4.that the respondent accept and agree that the appellant has every right to give advise, suggestion, opinion with regard to the health of child;

5.that the respondent should spend maximum time with child and also undertakes that the respondent will stay in night hours with child at least for two years;

6.that the respondent hereby undertakes that he will not hand over the child in custody of other family members by showing his business activities;

7.that the respondent undertake that he will inform the appellant by letter for ear piercing ceremony and undertakes to inform about all other function of the child to the appellant through a register post;



8.that the respondent undertakes that the respondent will bring the minor child in a well disciplined manner without referring the expenses;

9.that the respondent undertakes that he should not project his family business has hampered growth of the minor child, his education and other future aspects;

10.that the respondent and appellant agree that the minor child should celebrate Diwali holidays with the respondent and Pongal holidays with the appellant;

11.that the respondent undertakes that he will give first preference to the minor child even though the respondent has an opportunity for the second marriage;

12.that the respondent hereby undertakes that in the event of cruelty due to second marriage, the minor child should be handed over to the appellant;

13.that the respondent undertakes to deposit the sum of Rs.5 lakhs in the name of minor child within a period of 15 days from the date of receipt of order copy and further undertakes he will not withdraw the amount till he becomes major;

14.that the respondent be and hereby undertakes that he will transfer the property in the name of minor(the schedule of property is attached in a separate annexure). The respondent well settle the property within 15 days. 3 the respondent will not sell the property which is settled in the name of minor;



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15.that, both the parties be and hereby undertake should not inform or create a wrong opinion against their opponent party as well as their family members;

16.that the Respondent should leave the child with the Appellant for half of holidays (First Half) during the vacations(Quarterly, Half-yearly and annual exams) in school;

17.that the respondent will take the child from the appellant place for interview for two days as the date specified by the School and if the child has to attend interview after two days or any date, the appellant will take the child to interview to join the school whenever necessary;

18.that the respondent should ensure the safety of child in all times;

19.that the Respondent should permit the appellant to contact the child at all reasonable time through phone;

20.that the respondent should permit the appellant to meet the child whenever she wishes to meet the grand child;

21.that the respondent should agree violation of any condition stated above, the respondent should hand over the child to the appellant and;

22. that there be no costs in there Civil Miscellaneous Appeals.”



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3.Now there is some misunderstanding between the parties and they are not complying with the order of this Court, dated 26/04/2018 in letter and spirit. Therefore, the present civil miscellaneous petitions have been for reopening the common order passed in CMA(MD)Nos.864 and 865 of 2017, dated 26/04/2018.

4.Today both the parties are personally present before this Court along with the child and this Court enquired them separately.

5.Admittedly, the petitioner is residing in Trichy and the respondent is residing in Pollachi. The child is with the respondent, who is the father and also the natural guardian. Now there is no question of guardianship and it is a matter of custody alone. Since the petitioner lost her daughter and through her daughter, the subject matter of the child born and to show the love and affection, she has filed the present petitions to get some orders for visitation/interim custody.

6.Admittedly, earlier this Court gave a direction that during holidays, the petitioner has to take the child with her to Trichy for staying with her in Trichy for sometime, once in a week. There is no allegation against each other



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that neither the petitioner, nor the respondent acting against the interest of the child or welfare of the child. In the case of custody/visitation right, the interest of the child is a paramount consideration.

7. Even though, the respondent is the natural guardian and father of the child, however, the petitioner is the maternal grand-mother who lost her beloved daughter and therefore, she wants to extend her love and affection to the child, who born through her daughter.

8. Considering the above facts and circumstances of the case, this court hereby modified the common judgment, dated 26/04/2018, passed in CMA(MD)Nos.864 and 865 of 2017 to the effect that **The respondent is directed to drop the child to the house of the petitioner situated at Trichy during holidays namely quarterly, half-yearly and annually for a period of one week and also two days during festival days namely during Deepavali and Pongal Holidays subject to the holidays granted by the School authorities and in case, the respondent is unable to hand over the child with his grand-mother, he has to give intimation well in advance to the petitioner and in that event, the petitioner has to make own arrangements to take the child.**



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9. With the above said modification, both the civil miscellaneous petitions are **disposed of**.

(P.VELMURUGAN, J.) (L.VICTORIA GOWRI, J.)
19-11-2025

Index: Yes/No
Internet: Yes/No
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To,

The Family Court,
Trichy.



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and

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