



C.M.A(MD)Nos.699 & 703 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

C.M.A.(MD)Nos.699 & 703 of 2023

C.M.A.(MD)No.699 of 2023:

M.Mohankumar

.... Appellant /
Petitioner

VS.

M.Kanchanadevi

... Respondent /
Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 19 of Family Court Act to set aside the fair and decreetal order passed in O.P.No.59 of 2020 dated 12.08.2022 on the file of the Family Court, Sivagangai.

For Appellant : Mr.B.Saravanan
Senior Counsel
for Mr.D.Kirubakaran



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For Respondent : Mr.S.Seenivasaraghavan

C.M.A.(MD)No.703 of 2023:

M.Mohankumar

.... Appellant /
Petitioner

vs.

M.Kanchanadevi

... Respondent /
Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 19 of Family Court Act to set aside the fair and decreetal order passed in O.P.No.60 of 2020 dated 12.08.2022 on the file of the Family Court, Sivagangai.

For Appellant : Mr.B.Saravanan
Senior Counsel
for Mr.D.Kirubakaran

For Respondent : Mr.S.Srinivasa Raghavan

COMMON JUDGMENT

Heard both sides.

2.Thiru.M.Mohankumar got married to M.Kanchanadevi on 13.11.2011 at R.M.R Kalyana Mahal at Sivagangai. It was also duly

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registered. A male child Van Mukilan was born through the wedlock on 22.01.2013. M.Mohankumar is employed in USA. The marital relationship between the parties has come under strain. M.Kanchanadevi is residing at Sivagangai along with her son. M.Mohankumar filed HMOP.No.59 of 2020 before the Family Court, Sivagangai seeking dissolution of the marriage. He also filed GWOP.No.60 of 2020 before the very same Court seeking guardianship and custody of the child. Both the OPs were dismissed on 12.08.2022. Questioning the dismissal of the divorce petition, M.Mohankumar filed CMA(MD)No.699 of 2023 before this Court. He also filed CMA(MD)No.703 of 2023, questioning the order made in GWOP.

3.When the matters were listed for final hearing before us, we called upon the parties to resolve the issue between themselves. Considering the medical condition of M.Kanchanadevi, M.Mohankumar graciously informed the Court that he would not press CMA(MD)No.699 of 2023. CMA(MD)No.699 of 2023 is dismissed as not pressed. We place on record our appreciation for the gesture shown by Thiru.M.Mohankumar.



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4.As regards CMA(MD)No.703 of 2023, the mother / M.Kanchanadevi had stated that she has no objection for the child to be with the father during summer vacation. We direct M.Kanchanadevi to hand over physical custody of the child to M.Mohankumar at the start of the summer vacation. It is open to M.Mohankumar to take the child on summer vacation to any place of his choice. Since M.Kanchanadevi expressed her misgivings regarding the safety of the child, we direct M.Mohankumar to take utmost care in this regard. M.Mohankumar will re-handover the child to M.Kanchanadevi 3 days before the expiry of the summer vacation. M.Mohankumar will intimate through SMS or any other mode about the places to which the child is being taken. M.Kanchanadevi will also have access to the child Van Mukilan through Whatsapp or any other mode of communication during the said period.

5.Today happens to be the birthday of Van Mukilan. The father has equal rights over the child like the mother. Therefore, we direct that the child will be with the father this evening from 06.00 p.m to 09.00 p.m. Since M.Mohankumar has come down to India and will be here till 31.01.2025, M.Mohankumar can take the child in the morning to drop



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him in the school. He will drop the child back in the home of the respondent in the evening. The child can be in the exclusive custody of the father on 25th and 26th of this month. Whenever M.Mohankumar wants to talk to his son, M.Kanchanadevi shall facilitate the same and shall not prevent it. We further direct as follows :

“3.The respondent shall permit to renew the passport and it will be in the custody of the appellant. The child shall be allowed to visit his father in U.S during vacations.

4. Green Card / Visa will be applied in the name of the child.”

6.Thiru.M.Mohankumar undertakes to continue to pay the monthly maintenance and bear the child's education and other expenses including medical bills. M.Kanchanadevi is directed to extend her fullest co-operation for obtaining renewal of the child's passport. The arrangement made for this month will continue every January when M.Mohankumar comes to India till the boy attain majority. The paternal grandparents are at liberty to visit the home of M.Kanchanadevi to see the child. Grandparents will have to give advance intimation to M.Kanchanadevi before their arrival. If any difficulty arises in



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implementing this order, it is open to the parties to file a Miscellaneous Petition in C.M.A(MD)No.703 of 2023 itself. The order impugned in C.M.A(MD)No.703 of 2023 is set aside.

7.C.M.A(MD)No.703 of 2023 is disposed of with the above terms.

No costs.

(G.R.S., J.) & (R.P., J.)
22.01.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

The Family Court,
Sivagangai.



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