
(2010) 04 MAD CK 0129

In the Madras High Court

Case No : Civil Revision Petition (NPD) No. 985 of 2010 and M.P. No. 1 of 2010

V. Vincent Velanganni

APPELLANT

Vs

P. Amutha

RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Guardians and Wards Act, 1890 — Section 9(1)

Citation : (2010) 04 MAD CK 0129

Hon'ble Judges : S. Tamilvanan, J

Bench : Single Bench

Advocate : G.V. Sundaranandh, for the Appellant; S. Gopi, for the Respondent

Final Decision : Dismissed

Judgement

S. Tamilvanan, J.—Challenging the order, dated 08.01.2010 passed in I.A. No. 8 of 2010 in G.W.O.P. No. 73 of 2009 on the file of the

Principal District Judge, Tiruvallur, this Civil Revision has been preferred.

2. It is an admitted fact that the petitioner herein is the husband and the respondent is the wife of the petitioner. It is brought to the notice of this

Court that H.M.O.P. No. 35 of 2005, seeking restitution of conjugal rights filed by the petitioner herein on the file of the Subordinate Judge,

Poonamalle was allowed, by order, dated 11.08.2005. Since the respondent herein was not inclined to comply with the order of restitution of

conjugal rights on the petition filed by the husband, divorce, dissolving the marriage between the petitioner and the respondent was ordered by the

said Court below. Subsequently, the petitioner herein filed G.W.O.P. No. 73 of 2009, seeking custody of the minor son, V. Prabakaran. It is also

not in dispute that the petitioner and the respondent have two minor children,

son V. Prabakaran, born on 05.09.2003 and daughter V. Jona born on 12.07.2006.

3. The petitioner herein wanted to provide proper education to minor Prabakaran in Kendriya Vidhyalaya, H.V.F, Avadi, a reputed school. The

petitioner herein had also filed writ petition in W.P. No. 6297 of 2010, by order, dated 29.03.2010, this Court, after considering the writ petition

filed under Article 226 of the Constitution of India, directed the second respondent therein, Kendriya Vidhyalaya, H.V.F, Avadi to admit the minor

in I standard, as he was selected on merits for admission. The second respondent in the writ petition was also directed by this Court to keep one

seat vacant in the first standard of the school for the minor, V. Prabakaran.

4. Learned Counsel appearing for the petitioner submitted that if minor Prabakaran is not admitted in the school, as per the direction of this Court,

that will be detrimental to the interest and welfare of the said minor. The copy of the order passed in the writ petition shows that only on the

direction of this Court, the school authority is keeping the seat vacant for the minor Prabakaran.

5. When the matter was called, in the open court, today both the parties with the said minor children were present. As per the order passed in

G.W.O.P. No. 73 of 2009, the custody of the minor son was admittedly entrusted to the petitioner herein and there was no stay of the order,

dated 16.11.2009 passed in the G.W.O.P by the learned Principal District Judge, Tiruvallur. As per the decretal order passed u/s 9(1) of

Guardians and Wards Act, the petition was allowed and the respondent herein was directed to hand over the custody of the minor male child

Prabakaran to the petitioner.

6. On the aforesaid circumstances, considering the welfare of the minor Prabakaran, son of both the parties, I am of the view to direct both the

parties to comply with the orders passed in the G.W.O.P and the writ petition. The petitioner herein is also directed, as per the order passed in the

writ petition to admit his minor son, V. Prabakaran in the school and incur all expenses towards his education and maintenance of the minor,

without prejudice to the rights of the respondent herein, being the mother of the minor. The respondent is directed to hand over the custody of

minor Prabakaran to the petitioner forthwith, so as to enable the minor getting

admission in the school. The mother of the minor son is entitled to visit her minor son without detrimental to the right of education of her minor son, Prabakaran and she is also permitted to visit her minor son on holidays at the residence of the petitioner herein. The petitioner is directed to provide necessary facilities for the respondent in meeting the minor son without causing any inconvenience to her.

7. However, as there no final order under challenge in this Revision Petition, it is made clear that this order is nothing to do with the Interlocutory

Application pending in I.A. No. 8 of 2010 in G.W.O.P. No. 73 of 2009 on the file of the learned Principal District Judge, Tiruvallur and the same

shall be disposed only on merits, uninfluenced by the findings of this Court in the Revision Petition, since this order is passed, solely considering the education of the minor Prabakaran.

With the above direction, this Civil Revision Petition is disposed of. No order as to costs. Consequently, connected miscellaneous petition is closed.