



O.P.No.649 of 2022

WEB CO **K.KUMARESH BABU, J.**

Today when the matter was taken up, serious allegations had been raised by the learned counsel for the petitioners as against the respondent/mother. He would submit that this Court by order dated 12.01.2023 had directed that the child should not be taken out of Cuddalore while granting a visitation right. The respondent/mother had failed to comply with the order and she had moved an Intra Court Appeal in O.S.A.No.21 of 2023 which came to be disposed of on 18.04.2023 indicating that the interim arrangement made on 12.01.2023 should be continued till the disposal of the application. But, however, learned counsel would submit that the respondent/mother had taken the minor child outside India. When this was confronted, learned counsel for the respondent would submit that she had not taken the child during the interim order was in force and she had only taken the child in the year February 2023 and that they had departed in April 2023. These submissions have made based upon the documents that have been placed by the respondent.



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2.Be that as it may, this Court by its order dated 12.01.2023 had directed a visitation right to the petitioners herein on 21.01.2023 & 22.01.2023 and had also passed restraint order that the child should not be taken out of the Cuddalore.

3.Being aggrieved against the same, the respondent/mother had moved an Intra Court Appeal in O.S.A.No.21 of 2023. The said O.S.A, was disposed on 18.04.2023. A submission seems to have been made by the learned counsel appearing on either side that they inclined to go before the learned Single Judge dealing with the Original Petition to redress their grievance.

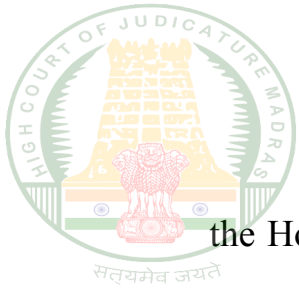
4.Recording their statement, the Hon'ble Division Bench was pleased to dispose of the Intra Court Appeal leaving it open to the parties to agitate their rights in the Original Petition. However, the Hon'ble Division Bench had also held that till a final decision has been taken in the Original Petition, the interim arrangement made in the order dated 12.01.2023 shall be continued. The said order therefore precludes the respondent/mother from taking the child outside Cuddalore.



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5.It is also pertinent to note that the documents provided by the respondent/mother, immigration seal in the passport of the minor child had been made indicating departure of the child on 08.04.2023. In such a view of the matter, I am of the view that when the order dated 18.04.2023 came to be passed, the child was not within the jurisdiction of this Court and has been moved outside Cuddalore violating Clause 3(2) of the order dated 12.01.2023.

6.It is also pertinent to note that the respondent/mother had not indicated to the Court, the child is already away from Cuddalore outside India, this in my view is an act of suppressing material facts which had misled the Court to continue the interim arrangement dated 12.01.2023 till the disposal. Hence, the respondent/mother is directed to file an affidavit bringing facts as to when the child was taken out of Cuddalore and further facts with regard to the movement of the child till date and also explain as to why this fact had not been placed before the Hon'ble Division Bench when the order dated 18.04.2023 came to be passed. If no satisfactory affidavit is filed, I am of the view that it is a fit & proper case to place the same before



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the Hon'ble Division Bench which passed the order dated 18.04.2023, I am of the view that there is abuse of process of this Court by the respondent/mother.

7.Post the matter for filing such affidavit on 28.07.2023.

12.06.2023

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Note: order copy to be uploaded on 10.07.2023



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