

Glory vs Minor. Mathumathi

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Court : Chennai

Decided On : Apr-21-2025

Judge : Honourable Ms. Justice P.T. Asha

Appeal No. : CRP/1606/2025

Appellant : GLORY

Respondent : Minor. Mathumathi

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA CRP.(PD).No.1606 of 2025 and CMP.No. 9306 of 2025 1.Glory Warden, Annai Lourdes Girls Higher Secondary School, Thennur Village, Andimadam Taluk, Ariyalur District, Now at Kumbakonam Town Higher Secondary School, Kumbakonam Taluk, Thanjavur District. 2.Emalda Sheela Head Mistress, Annai Lourdes Girls Higher Secondary School, Thennur Village, Andimadam Taluk, Ariyalur District. 3.Fr.Selvaraj The Correspondent,

Annai Lourdes Girls Higher Secondary School, Thennur Village, Andimadam Taluk, Ariyalur District. ... Petitioners Vs. Minor. Mathumathi Rep. by her next friend and mother Mahalakshmi Puthu Theru, Vilanthai Village, Andimadam, Andimadam Taluk, Ariyalur District ... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 04.12.2024 in IA.No.2/2023 in OS.No.58/2021 on the file of the Principal District Judge, Ariyalur allow the CRP. For Petitioner : M/s.I.Arokiasamy

ORDER

Challenging the dismissal of their application to reject the plaint in OS.No.58 of 2021 pending on the file of the Principal District Court, Ariyalur, the defendants 1 to 3 are the revision petitioners before this Court. Brief facts:-

2. The respondent/plaintiff had filed the suit OS.No.58/2021

claiming damages of a sum of Rs.18,00,000/-. The said amount was claimed by the respondent/plaintiff for the injury sustained by her on account of the beating that she had received from the 1st petitioner/1st defendant on her head on 07.01.2016 as a result of which the minor respondent/plaintiff had swooned and had to be rushed to the health center for first aid. Thereafter, she had returned to the hostel on the next day i.e. on 08.01.2016 at around 3 a.m. in the early hours. Thereafter, at around 4 a.m. on the very same day the minor started vomiting and had once again swooned and therefore she was rushed to

the Bama Hospital. The doctors who had inspected her had opined that on account of the injury sustained by her on her head she had to be sent to the Annamali University, Chidambaram for advance treatment and the 1st petitioner/1st defendant therefore contacted the parents of the said Mathumathi who had rushed immediately. The minor had to be kept in the hospital ICU and in the process, the parents of the minor had

incurred huge expenditure. A complaint was also lodged against the school authorities by the parents of the minor child. However, since the petitioners/defendants had a considerable clout, no action was taken. Therefore, the respondent/plaintiff has come forward with the suit for damages.

3. The petitioners/defendants on receiving notice in the above

proceedings had filed IA.No.2 of 2023 for rejecting the plaint. The petitioners/defendants would submit that the minor can be represented by the mother only if the father is no more. In the instant case, contrary to the provision of Section 6 of the Hindu Minority and Guardianship Act, 1956, the plaintiffs mother has filed the suit though the father is very much alive. That apart the

petitioners/defendants would submit that no cause of action has been set out by the respondent/plaintiff in the plaint. The petitioners/defendants would contend that even without a disability certificate issued by the competent medical board a fanciful claim is sought to be made. The petitioners/defendants would further submit that the accident register of the JIPMER Hospital would show that it is a history of fall in the hostel and no external wound can be seen. Therefore, without making out a prima facie case, the respondent /plaintiff had rushed to file the suit and therefore, the same deserves to be dismissed.

4. The respondent/plaintiff had filed a detailed counter stating

that there is no express bar to a mother of the minor representing her as a guardian when the father is alive. A mother can always institute a proceeding on behalf of a minor with the consent of the father. Admittedly, there is no quarrel between the plaintiff's mother and father. That apart, the respondent/plaintiff has set out in great detail the facts which have culminated in the filing of the suit and therefore sought for the

dismissal of the application.

5. The learned Principal Judge, Ariyalur by her order dated 04.12.2024 was pleased to dismiss the said application. Challenging the same, the petitioners are before this Court.

6. The main grounds on which the petitioners/defendants seek to reject the plaint are:-

(a) The mother of the minor cannot represent the minor as a guardian when the father is very much alive. (b) No cause of action has been made in the plaint.

7. As regards the issue of cause of action, a mere perusal of the

plaint would demonstrate as to how the respondent/plaintiff has pleaded the factum of the injury caused on account of the beating by the 1st respondent/1st defendant on the head of the minor and the subsequent act of rushing her to and fro to the various hospitals. The cause of action is a bundle of facts and each fact has been pleaded by the respondent/plaintiff.

8. The 2nd ground on which the revision has sought to be

challenged is that the mother has represented the minor and not the father particularly when the father is very much alive. The provisions of Section 6 of the Hindu Minority and Guardianship Act, 1956 require to be considered. Section 6 would read as follows:- "The natural guardian of a Hindu minor, in respect of the minors person as well as in respect of the minors property (excluding his or her undivided interest in joint family property), are-

(a) in the case of a boy or an unmarried girl-the father, and after him, the mother: provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother;

(b) in case of an illegitimate boy or an illegitimate unmarried girl-the mother, and after her, the father;

(c) in the case of a married girl-the husband: Provided that no person shall be entitled to act as the natural guardian of a minor under the provisions of this section-

(a) if he has ceased to be a Hindu, or

(b) if he has completely and finally renounced the world by becoming a hermit (vanaprastha) or an ascetic (yati or sanyasi).

9. A mere reading of this does not preclude a mother from

acting as the natural guardian of a minor. In the instant case, the father, natural guardian, is alive and has not objected to the same. Therefore, the order passed by the learned Principal District Judge, Ariyalur is very much in order and I see no reason to interfere with the same.

10. Accordingly, the Civil Revision Petition stands dismissed. No

costs. Consequently, the connected Miscellaneous Petition is closed. 21.04.2025 (shr) Index : Yes/No Speaking Order: Yes/No Neutral Citation : Yes/No To 1.The Principal District Judge, Ariyalur P.T. ASHA. J., (shr) CRP.(PD).No.1606 of 2025 and CMP.No. 9306 of 2025 21.04.2025

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