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O.P.No.369 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

OP No. 369 of 2024

Anu Rajan Babu
D/o. Rajan Babu,
No.102/1, Kamarajar High Road,
New Perungalathur, Chennai 600 063.
Currently Residing at
955, Hochelaga St W,
Moose Jaw, Saskatchewan S6H 2H7,
Canada.

..Petitioner(s)

Vs

Mariappan
S/o. Pandurangan,
Flat No.GF2, Plot No.11, Sri Sai Homes,
Kakabujander Nagar Main Road,
New Perungalathur, Chennai 600 063.

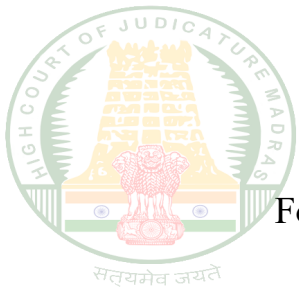
..Respondent(s)

PRAYER: (i) Declaring the petitioner (mother) as the sole guardian of the person of above named Minor Child M.A. Tejesh born on 22.01.2019.

(ii)Granting permanent custody of Minor M.A.Tejesh to the petitioner.

(iii)Granting permission to take the minor child outside the jurisdiction of this court.

For Petitioner(s): M/s.Radhika Boopathi
Kanimozhi Sundar
N.Kalidoss
B.Rukmani



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For Respondent(s): M/s. R.Rajesh Kumar
M. Sivakumar (157/2020)
Ekalaivan N (5043/2022)
For Sole Respdt - D.No. 31371/2024 Filed
On 19.08.2024
No.362, New Addl.Lc, Hcb, Ch-104 (ph:
9840031649/8608080369)

ORDER

This Original Petition has been filed under Sections 3 and 7 to 10 of the Guardians and Wards Act, 1890, read with Clause 17 of the Letters Patent and Order XXI Rules 2 and 3 of the Original Side Rules, seeking to declare the petitioner/mother as the sole guardian of the person of the minor child, M.A. Tejesh, born on 22.01.2019; to grant permanent custody of the minor to the petitioner; and to permit the petitioner to take the minor child outside the jurisdiction of this Court.

2. In brief, the petitioner's case is that her marriage with the respondent was solemnised on 04.09.2016 at Selva Vani Mahal, Tondiarpet, Chennai, and that, out of wedlock, the minor son, M.A. Tejesh, was born on 22.01.2019. According to the petitioner, owing to matrimonial discord, the parties have been living separately for several years. It is her further case that the minor has been in her care and that of



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her parents; that the respondent has not consistently taken responsibility for the child's upbringing, expenses and educational needs; and that, when the petitioner sought to take the minor with her to Canada to secure better care and educational opportunities, the respondent did not cooperate by furnishing the consent and other documents required for the child's visa and schooling.

3. In support of the petition, the petitioner has produced documents including the marriage invitation, marriage photograph, marriage registration certificate, birth certificate of the minor child, copies of the respondent's earlier divorce petition and the petitioner's maintenance proceedings, school-related documents, a legal notice, and identity documents.

4. Notice was ordered to be served on the respondent. The respondent appeared before Court. The subsequent orders of this Court disclose that the respondent-father appeared in person and, by affidavit, stated that he had no objection to the petitioner being declared the sole guardian and to the child remaining in the petitioner's custody; however, he sought visiting rights. Later, it was also recorded that the respondent had filed a counter-affidavit along with a



consent affidavit, and that the matter was referred to the learned Master for recording evidence.

5. The question for consideration is whether, having regard to the welfare of the minor, the petitioner is entitled to be declared the sole guardian of the person of the minor child, to have permanent custody of the child, and to obtain permission to take the minor outside the jurisdiction of this Court.

6. In proceedings relating to guardianship and custody, the welfare of the minor is the paramount consideration. The rights of the parents, though relevant, are subordinate to the child's welfare, stability, security and educational prospects. The material before this Court shows that the minor was born on 22.01.2019 and remains of tender age. The petitioner is the mother. There is no material before this Court indicating that she is disqualified, incapable or otherwise unfit to have custody of the minor.



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7. On the contrary, the record before this Court shows that the petitioner has approached this Court, asserting that the relief is necessary for the child's care, education and travel formalities. The pleadings also indicate that the child's visa, school admission and other academic requirements in Canada require parental documents and consent, and that the absence of a clear guardianship order is impeding progress. Significantly, the earlier judicial orders in this very proceeding record that the respondent-father stated he had no objection to the petitioner being declared the sole guardian and to the child remaining in her custody, though he sought visiting rights. There is thus no surviving contest on the core issue of guardianship and custody.

8. In the circumstances above, this Court is of the view that granting relief in favour of the petitioner would subserve the welfare of the minor. At the same time, since the record also shows that the respondent had sought visiting rights, it is appropriate to leave that issue open to be worked out separately, either by mutual arrangement or by appropriate application, if necessary. The pendency or absence of a structured visitation arrangement cannot, in the facts of the present case, stand in the way of granting the substantive reliefs sought for the welfare, custody and educational future of the child.

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WEB COPY 9. Accordingly, this Original Petition is allowed on the following terms:

- (i) the petitioner, Mrs Anu Rajan Babu, is declared the sole guardian of the person of the minor child, M.A. Tejesh, born on 22.01.2019;
- (ii) permanent custody of the minor child, M.A. Tejesh, is awarded to the petitioner;
- (iii) the petitioner is permitted to take the minor child outside the jurisdiction of this Court, including outside India, and to do all acts necessary for the child's travel, visa, residence, education and allied requirements;
- (iv) This order shall not preclude the respondent-father from seeking appropriate visitation rights, if so advised, before the competent Court. It is open to the parties to work out reasonable access by mutual arrangement, with the welfare of the minor as the paramount consideration. No costs. Consequently, the connected applications, if any, stand closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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List of Witnesses examined on the side of the Petitioner:

PW1—Mrs.Anu Rajan Babu

List of Documents marked on the side of the Petitioner:

Ex.P.1 is my marriage invitation card.

Ex.P.2 is my marriage photograph along with CD.

Ex.P.3 is the downloaded copy of my marriage certificate.

Ex.P.4 is the computer generated birth certificate of my minor son M.A.Telesh (compared with the original)

Ex.P.5 is the office copy of the legal notice dated 22.04.2022 sent by my counsel to the respondent.

Ex.P.6 is the certificate under Section 63 (4)(c) of BSA.

List of Witnesses examined on the side of the respondent: Nil

List of Documents marked on the side of the Petitioner:Nil

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DR.A.D.MARIA CLETE, J.

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