

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 11TH DAY OF AUGUST 2016

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

A.Nos.3579 to 3581 of 2016
in

O.P. No.327 of 2012

In the matter of Guardian
and Wards Act, 1890

and

In the matter of Minor CHILD
R.K.Bharath Vignesh, aged 9
years

Mr.T.S.Ramesh,
S/o.Mr.T.Subramanian,
No.25-A, Rainbow Flats,
New No.114 (Old No.40),
Ponnambalam Salai, K.K.Nagar,
Chennai-600 078.

... Applicant/Petitioner
(in all applications)

-Versus-

V.Krithika,
W/o.Mr.T.S.Ramesh,
New No.40, Old No.61,
OVM Street, Triplicane,
Chennai-600 005.

... Respondent/Respondent
(in all applications)

A.No.3579 of 2016:-

Application praying that this Hon'ble Court be
pleased to issue subpoena to Ms.V.B.Premalatha, Advocate
Commissioner having office at No.74, Addl. Law Chamber,
High Court Buildings, Chennai-600 104 for the purpose of
giving evidence is the above case.

A.No.3580 of 2016:-

Application praying that this Hon'ble Court be pleased to issue subpoena to Ms.Mohana Narayanan, Psychological Counsellor having office at No.8, 3rd Seaward Road, Valmiki Nagar, Thiruvannamipur, Chennai 600 040 for the purpose of giving evidence in the above case.

A.No.3581 of 2016:-

Application praying that this Hon'ble Court be pleased to direct the Respondent to cooperate with applicant to have access to the child during from 9th September 2016 till 17th September 2016 and a week during Diwali festival.

These Applications coming on this day before this Court for hearing Court made the following order:

All the three applications have been filed by the father of the minor child R.K.Bharath Vignesh studying in 9th standard having come from abroad. The learned counsel for the applicant submits that the applicant is likely to be in Chennai from 09.09.2016 to 17.09.2016 and therefore, the applicant wants to have the custody of the child during the said period. It is further submitted that subpoena may be sent to Ms.Mohana Narayanan, Psychological Counsellor and Ms.V.B.Premalatha, Advocate Commissioner for giving evidence in the matter.

2.Learned counsel for the respondent submits that the child is having examinations from 10.09.2016 to 21.09.2016. Therefore, the said factor will have to be kept in mind.

3.The question of issuing subpoena does not arise in this case as it is for the parties to convince the Court on the need for custody with them, keeping in view the interest of the child. Therefore, there is no question of allowing the applications, seeking issuance of subpoena. After all, the psychological counsellor has done her professional duty. Similarly, the application seeking issuance of subpoena to the Advocate Commissioner is also not required as the respondent is ready and willing to cooperate with the applicant to have access to the child, but, the only dispute is with regard to the timings, in view of the ensuing examination.

4.Considering the same, this Court is inclined to allow the applicant to have the custody of the child on 10.09.2016, 11.09.2016, 13.09.2016, 16.09.2016 and 17.09.2016. Insofar as 10.09.2016, 11.09.2016, 13.09.2016 and 16.09.2016 are concerned, the applicant shall have the

custody of the child from 4.00 p.m to 7 p.m. Insofar as 17.09.2016 is concerned, the applicant shall have the custody of the child from 5.30 p.m. to 7.30 p.m. It is made clear that the applicant can take the child from the residence of the respondent. The application in A.No.3581 of 2016 stands ordered accordingly. However, this order will not be construed that even at the instance of the applicant, the psychological counsellor cannot be examined as a witness on his side, making it clear that if the said person is willing, it is always open to the applicant to produce her as a witness on his side.

5. In view of the above, the applications in A.Nos.3579 and 3580 of 2015 are closed.

sd/.M.M.S.J

11.08.2016

//Certified to be a true copy//

Dated this the day of 2016.

S.s/22.08.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.