

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.2408 OF 2014

T.Periyasamy

... Appellant

Vs.

Thangammal

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 47 of the Guardians and Wards Act, 1890, against the order passed in G.O.P.No.27 of 2012 on the file of the First Additional District Judge, Salem, dated 14.02.2014.

For Appellant : Mr.S.Ramachandran

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the appointment of guardian made by the First Additional District Judge, Salem, in G.O.P.No.27 of 2012 dated 14.02.2014.

2. The respondent father in the G.O.P., is the appellant herein. The grandmother of the minor children, who is the respondent herein, filed a petition for appointment of guardianship for the minor children born to her daughter, as per Sections 7 and 10 of the Guardian and Wards Act. The purpose of the petition was to permit her to redeem the gold jewels pledged in the Cooperative Bank.

3. Admittedly, the daughter of the petitioner in the G.O.P. / respondent herein, died intestate. After the death of her daughter, the respondent herein was taking care of the minor children and kept them under her custody. When 15 sovereigns of gold jewels belonging to her daughter was pledged in the Cooperative Bank, Siruvachur, Attur Taluk, Salem, it was required by the Bank to produce succession certificate and the certificate appointing her as Guardian by the Court of law. Accordingly, the respondent herein, filed a petition to appoint her as a Guardian to the minor children.

4. The appellant herein had filed a counter stating that the respondent herein / petitioner in G.O.P., and her daughter were characterless persons and he was maintaining the children and therefore, the grandmother shall not be appointed as a Guardian. On considering the elaborate evidence and divorce by mutual consent according to the customary practices, continuous maintenance of the children by grandmother, the Court had appointed the respondent / grandmother as Guardian.

5. It is pertinent to note that the appellant / father though alleged that the minor children were taken away by force by the respondent / grandmother, he has not taken any steps to take back the custody of the minor children. Till date, he has not filed any petition for the said purpose. Since the appellant / father had divorced the mother of the minor children and ever since the divorce, the minor children were living with their grandmother, it can be easily inferred that their interest were taken care of by the grandmother / respondent herein. The purpose of filing the petition was to redeem the jewels from the Bank for the interest of the minors. If at all the appellant is very much interested in taking custody of the minor children, he could have approached the Court by filing appropriate petition. In the petition filed by the respondent / grandmother, for the purpose of wrecking vengeance, the appellant is contesting the case. He has not produced any evidence in support of his action taken for the prospects of the minors on account of his love and affection over them. Only for the purpose of objecting the claim of the respondent / grandmother, the appellant has made wild allegations on the character of the deceased wife as well as her mother.

6. The Trial Court has considered all these aspects and in the interest of the minor children, has appointed the respondent / grandmother as Guardian to them. The finding of the Trial Court is based on valid reasons and the appellant / father has not made out any sustainable reason warranting interference. In such circumstances, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

TK

To

The First Additional District Judge
Salem.

copy to

The Record Keeper
VR Section
High Court Madras

+1 cc to Mr.C.K.M.Appaji Advocate sr 84242

C.M.A.NO.2408 OF 2014

ss(co)
aa01/03/2018



WEB COPY