

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 27TH DAY OF MARCH 2017

THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM

A.No.451 of 2017
in
O.P.No.530 OF 2016

In the matter of
Guardians and Wards Act 1890
And
In the matter of minor
Ms.Samiksha and Master
Saatvik

(*) M.Leelavathi, Wife of Late
(*)K.S.Srinivasan
18/29L, Padmalayam Flats,
Azeez Nagar First Street,
Kodambakkam,
Chennai 600 024
(*) (Amended as per
order dated 22.09.2016)
in A.No.4843 of 2016)

... Petitioner

Vs.

Mrs.Sarala
W/o.Late Sivan Pillai
Plot No.12, Mettu Street,
Ninaikattur,
Kattankulathur,
Chennai 603 203.

... Respondent

A.No.451 of 2017

Mrs.M.Leelavathi,
Wife of
K.S.Srinivasan
18/29L, Padmalayam Flats,
Azeez Nagar First Street,
Kodambakkam,
Chennai 600 024

(Amendment Carried out as per
order dated 22.09.2016
in A.No.4843 of 2016)

... Applicant/Petitioner

Vs.

Mrs.Sarala
W/o.Late Sivan Pillai
Plot No.12, Mettu Street,
Ninaikattur,
Kattankulathur,
Chennai 603 203.

... Respondent/Respondent

Application praying that this Hon'ble Court may be pleased to pass an order to permit the applicant/Petitioner to hand over the minor children Ms.Samiksha and Master Saatvik in adoption to the applicant's daughter Mrs.Priya Kalpat Srinivasan and her Son-in-law Mr.Srinivasan Balakrishnan.

This application coming on this day before this court for hearing in the presence of Mr.R.Vishnu advocate for the applicant herein and Mr.T.Dharmarajan advocate for the respondent herein and upon reading the order herein dated 27.01.2017

The Court made the following orders:-

This application is filed under Section 9 of Guardians and Wards Act, seeking permission to hand over the minor children Ms.Samiksha and Master Saatvik in adoption to the applicant's daughter Mrs.Priya Kalpat Srinivasan and her son-in-law Mr.Srinivasan Balakrishnan.

2. According to the applicant, her son K.S.Suresh got married with Suma on 11.12.2009 and out of their wedlock, they were blessed with two children viz., Samiksha and Saatvik. The applicant's son K.Suresh died due to heart attack on 19.12.2015, while her daughter-in-law Mrs.Suma passed away on 03.05.2016, leaving behind their two children. The applicant would further submit that her husband K.S.Srinivasan, originally filed the above O.P.No.530 of 2016 to appoint him as a guardian for the minor children and their property. However, during the pendency of the O.P, he died on 31.08.2016 due to lung cancer. Thereafter, she was substituted in the Application No.4843 of 2016, dated 22.09.2016. The respondent, who is

the maternal grandmother of the children did not have any objection and also she gave a consent affidavit. Therefore, the O.P. was allowed on 21.10.2016.

3. The applicant would further state that she is a deaf and dumb by birth and she has no independent income. The respondent is also aged lady, so they are not able to take care of the minor children. The applicant would state that her elder daughter Mrs.Priya Kalpat Srinivasan was married to Srinivasan Balakrishnan on 25.01.2016, but they do not have any children on their own, despite IVM Medical facilitation to bear the child and they have full love and affection on the minor children.

4. It is further stated that the applicant's daughter and her husband are working in SAN JOSE CITY in California, United States of America and they are earning US \$ 1,20,000 and US \$ 1,10,000 per annum respectively. The minor children have also developed love, affection and affinity towards both of them. The applicant also intend to stay along with her daughter and minor children in USA, after giving adoption to them. Hence, this application.

5. Heard the learned counsel appearing for the petitioner.

6. The applicant/petitioner was examined through Mrs.G.Vijayakumari, as P.W.1 since the applicant is a deaf and dumb, the answers given by the witness in sign language were explained to the Court by the aforesaid Mrs.G.Vijayakumari. In her evidence, she has reiterated what are all stated in the petition and marked the following document in support of his contentions:-

Ex.A1 is the consent affidavit filed by respondent

Ms.Sarala, maternal grandmother of the minor children stating that she has no objection in the minor children being given in adoption to the petitioner's daughter viz., Mrs.Priya Kalpat Srinivasan.

7. Mrs.Priya Kalpat Srinivasan was examined as P.W.2. In her evidence she has stated that she got married with Srinivasan Balakrishnan on 25.01.2016 and ever since the same, they do not have any children on their own, even the IVF procedure for conceiving a child was a failure. Hence, she and her husband have decided to adopt their nephew and niece Saatvik and Samiksha as their own children. She has further stated in her evidence that they are living and working in SAN JOSE CITY in California, United States of America and they are earning US \$ 1,20,000 and US \$ 1,10,000 per annum respectively. Hence, they have all qualities and qualifications to adopt the minor children Saatvik and Samiksha as their own children and provide with unstinted love, affection, all needs in life. She further stated in her evidence that the minor children have also developed love, affection and affinity towards them and they have also been given them the love and affection they need at this tender age.

8. The respondent-Sarala, maternal grandmother of the children has given her consent on 26.12.2016, stating that she has no objection in the minor children being given in adoption to the petitioner's daughter viz., Mrs.Priya Kalpat Srinivasan.

9. The applicant / petitioner had given evidence to the effect that adoption of the minor children concerned in this case by Mrs.Priya Kalpat Srinivasan and Mr.Srinivasan Balakrishnan would be in the best interest and welfare of the minor children.

10. In the above circumstances, since the applicant

is a deaf and dumb and aged lady and is also going along with their children to the United States and Mrs. Priya Kalpat Srinivasan and Mr. Srinivasan Balakrishnan are none other than her daughter and son-in-law respectively, keeping the welfare of the minor children in mind, the applicant/petitioner is permitted to handover the minor children viz., Ms. Samiksha and Master Saatvik, in adoption to her daughter Mrs. Priya Kalpat Srinivasan and son-in-law Mr. Srinivasan Balakrishnan.

11. It is represented by the learned counsel for the applicant that the applicant's daughter has come from United States of America to give evidence in this case. She has to go back with the children, aged about 5 years and 2 1/2 years respectively, and she has been in India since the death of her father on 31.08.2016 and if she does not join duty immediately, she may lose her employment.

12. Considering the peculiar facts of this case, this application is ordered subject to the following conditions:-

(i) Mrs. Priya Kalpat Srinivasan and Srinivasan Balakrishnan are hereby appointed as adoptive parents of the minor children Samiksha and Master Saatvik, whose photographs are duly attested and annexed hereto, as per **Section 56(2) of the Juvenile Justice (Care and Protection of Children) Act 2015 (Act 2 of 2016) Read with Regulation 51 and 55 of the Adoption Regulation. (*)**

(ii) The minor children Samiksha and Master Saatvik, are entitled to the legal status of biological children with all the rights of succession and inheritance.

(iii) Mrs. Priya Kalpat Srinivasan and

Srinivasan Balakrishnan are permitted to take physical custody of the minor children Samiksha and Master Saatvik, for being taken outside India, outside the jurisdiction of this Court for being brought up and maintained by them in SAN JOSE CITY in California, United States of America;

(iv) Mrs.Priya Kalpat Srinivasan and Srinivasan Balakrishnan shall submit periodical reports regarding the welfare of the minor children at the intervals of three months in the first two years and at the intervals of six months for the succeeding three years to the Court.

(v) The minor children shall be accompanied by a responsible adult.

(vi) The authority concerned shall issue necessary passport and travel documents to facilitate the travel.

13. It is made clear that this order cannot be taken as a precedent in future cases.

(*)Amended as per order dated 10.07.2019

in A. No.2880 of 2019 in O.P. No.530 of 2016

Sd./-

Asst. Registrar (O.S.II)

WITNESS THE HON'BLE THIRU.HULUVADI GANGADHARAPPA RAMESH ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 27TH DAY OF MARCH 2017.

sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

KY

R/T-28.03.2017

A.No.451 of 2017
in
O.P.No.530 OF 2016

ORDER

DATED:27.03.2017

THE HON'BLE MR.JUSTICE
K.KALYANASUNDARAM

FOR APPROVAL:28.03.2017

APPROVED ON: 28.03.2017

Copy to:
The Regional Passport
Officer,
Shastri Bhavan,
Chennai-600006.