

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 27TH DAY OF JANUARY 2017

THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM

O.P.No.889 OF 2016

In the matter of Guardian
and wards Acts 1890
and
In the matter of appointing
Guardian to minor E.Pranaya

Kavitha Gurusamy Rajamani,
Wife of Rajamani Sengodan,
Residing at 9, Chesapeake Road,
Monmouth Junction, NJ 08852 (New Jersey, USA)
now temporarily residing at
6/154, Salem Main Road, Mallasamudram,
Tiruchengode Taluk, Namakkal District, PIN 637 503
.... Petitioner

VS

1. Elango Gursamy
2. Ranjithalakshmi
both having permanent residence at
6/154, Salem Main Road, Mallasamudram,
Tiruchengode Taluk, Namakkal District, PIN 637 503
and presently residing at
A-2, Flat No.7, SAF Games Village,
Koyambedu, Chennai 600 107.

.....Respondents

Original petition praying that this Hon'ble Court be
pleased to appoint the petitioner as the guardian of the
person of the minor of E.Pranaya, aged 7 years and permit
the petitioner to take minor E.Pranaya with her abroad,

outside the jurisdiction of this Hon'ble Court.

This Original Petition coming on this day before this Court for hearing, the court made the following order:

This Petition has been filed under Sections 3 and 7 to 10 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of Original Side Rules, to appoint the petitioner as the guardian of the person of Minor E.Pranaya, aged 7 years.

2.The petitioner, upon professional commitments, she and her husband moved to United States of America and are now the citizens of the said country. The petitioner is living at New Jersey, USA with her husband and their minor children namely Iniya Rajamani, aged 14 years and Inban Rajamani, aged 11 years. The petitioner is presently working as Technical Accounts Manager in Tandem, a Transdev company at USA and her husband is working as Senior Software Architect in Bank of America.

3. The 1st respondent is the brother of the petitioner and the 2nd respondent is the wife of the 1st respondent. The respondents 1 & 2 were blessed with a minor daughter namely E.Pranaya and a son namely Rithvik Elango, aged 4 years. The 1st respondent is a business man and is involved in the business of ready mix concrete with more than 150

vehicles under his supervision and control. The 2nd respondent is also a partner in the business run by the 1st respondent. Recently, the 2nd respondent has been diagnosed with cancer of III stage in Carcinoma Ovary and has underwent a surgery in the Apollo Speciality Hospital, Chennai and has been advised to undergo chemo and radiation therapy. Since there is no suitable person in the family to look after the care, education and welfare of minor E.Pranaya, the petitioner is desirous of being guardian to the said minor and has filed the present Original Petition, seeking a direction to appoint her as the guardian of Minor E.Pranaya.

4.The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P2;

Ex.P1 is the photocopy of the passport bearing Passport No.518669531.

Ex.P2 is the computer generated Joint Income Tax Returns for the year 2015 in respect of the petitioner and her husband.

She has also stated that she has not filed any other petition before any other Court seeking the same relief.

5.The first respondent who examined himself as R.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.R1 to R3;

Ex.R1 is the original birth certificate of minor E.Pranaya, who was born on 01.06.2009.

Ex.R2 is the photocopy of School Identity Card of E.Pranaya, who is studying in the Indian Public School, Coimbatore.

Ex.R3 is the photocopy of the Aadhar Card bearing No.601876467425 issued in his favour.

6. The second respondent who examined herself as R.W.2, reiterated the averments made in the petition and filed the following documents viz., Exs.R4 to R6;

Ex.R4 is the photocopy of the Aadhar Card bearing No.513945582697 issued in her favour.

Ex.R5 is the photocopy of Discharge Summary dated NIL issued by Apollo Speciality Hospital, Chennai.

Ex.R6 is the photocopy of Histopathology in respect of the 2nd respondent.

7. Learned counsel for the petitioner submits that the respondents are the parents of minor E.Pranaya and they have no objection in petitioner being appointed as the guardian so that the education of the child will not be

affected.

8. Considering the relevant materials and after hearing the arguments, this Court is inclined to allow this petition.

9. In fine, this petition is ordered, by appointing the petitioner as the Guardian of the person of minor E.Pranaya. The petitioner shall execute a Guardian Bond for a sum of Rs.25,000/- in favour of Assistant Registrar O.S.(II), High Court, Madras. The petitioner is permitted to take the minor E.Pranaya, aged 7 years to USA to continue her studies in USA.

10. It is made clear that this order will not stand in the way of the respondent in filing an appropriate application, if so advised.

sd/.M.K.K.S.J
27.01.2017

//Certified to be a true copy//

Dated this the day of 2017

R.s/28.02.2017

COURT OFFICER

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