

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 16TH DAY OF FEBRUARY 2018

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No.1037 of 2017

In the matter of Guardian and
Wards Act

And

In the matter minor son
K.G.Akash son of K.N.Ganesh

S.Pavithra,
No.75, 3rd Street, A.V.M.Avenue,
Virugambakkam, Chennai-600 082.

... Petitioner

-Versus-

Mr.K.N.Ganesh,
S/o.K.Narasimha Rao,
No.19, Elango Street,
Thiruvalliswarar Nagar,
Thirumangalam, Chennai-600 040.

... Respondent

Original Petition praying that this Hon'ble Court may be pleased to pass a judgment and decree that the petitioner/mother may be appointed the guardian of the above named minor K.G.Akash.

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, 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 K.G.Akash.

2. The petitioner is Ex.wife of the respondent K.N.Ganesh. The petitioner has suffered unbearable mental agony, humiliation, and frustration, at the hands of the respondent. The conduct of the Respondent is one of grave and weighty cruelty and gives no future assurance of showing any conjugal kindness. The respondent's contribution to the maintenance of the family is nil. It is stated that there is a complete break down of the Marriage and the Marriage between the Petitioner and the Respondent has broken down irretrievably and it cannot be said to be alive. The petitioner was unable to bear the mental torture given by the respondent and she has gone temporarily to the house of her parents with her minor child seeking mental peace, since there is no other option available to her, at this stage of her life.

3. Under these circumstances the petitioner filed O.P.No.2235 of 2016 before the Family Court at Chennai for a decree of divorce on the ground of cruelty. The learned Principal Judge, Family Court at Chennai, allowed the said petition (viz) O.P.No.2235 of 2016 by passing a decree for the dissolution of Marriage on 22.02.2017.

4. The Minor is a Male Child. He was born on 26.10.2014. The said Minor son has been under the care and custody of his mother, the petitioner herein ever since his birth. On the contrary the Mother, who is the petitioner herein is well placed in life and is capable of shouldering responsibility of bringing up the Minor son under the custody and care of the petitioner/mother the Minor son would get proper education and better opportunities to attain good social status and peaceful life. Since there is no suitable person in the family to look after the care, education and welfare of minor K.G.Akash, 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 K.G.Akash.

5. 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 P5;

Ex.P1 is the original birth certificate of P.W.1's son K.G.Akash, who was born on 26.10.2014.

Ex.P2 is the photocopy of P.W.1's savings account passbook with Karur Vysaya Bank Limited bearing account No.1264155000148363.

Ex.P3 is the certified copy of the Judgment in O.P.No.2235 of 2016 dated 22.02.2017.

Ex.P4 is the computer generated copy of P.W.1's pay slip for the month of November 2017.

Ex.P.5 is the declaration and willingness of P.W.1.

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

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

7. In fine, this petition is ordered, by appointing the petitioner as the Guardian of the person of minor

K.G.Akash. 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 appointed as guardian of the minor K.G.Akash, who was born on 26.10.2014.

8. 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/.C.V.K.J
16.02.2018

//Certified to be a true copy//

Dated this the day of 2018

JJ 19/04.2018

COURT OFFICER

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