

O.P.No.376 of 2017

SENTHILKUMAR RAMAMOORTHY,J

This petition has been filed under Sections 3, 7 to 10 and 25 of the Guardian and Wards Act 1890 (Act 8 of 1890) read with Order XXV Rule 6 of the Original Side Rules.

2. I heard the learned counsel for the petitioner.

3. The petitioner is the mother of the minor child. The child was born to the petitioner and the respondent on 20.06.2012 at Apollo Hospitals, Greams Road, Chennai.

4. The learned counsel for the petitioner submits that the petitioner filed a petition to dissolve the marriage between the petitioner and the respondent and that the marriage was dissolved by decree dated 21.02.2017. He further submits that the respondent was duly served. Upon such service, the respondent entered appearance through counsel, but subsequently failed to file a counter and was eventually set ex parte on 01.10.2019. The learned counsel further submits that the petitioner adduced evidence before the learned Master. The petitioner was examined as P.W.1 and the following exhibits were marked through P.W.1:

i. Ex.P1 is the computer generated copy of the birth certificate of the minor child Nia Saji, who was born on 20.06.2012.

ii. Ex.P2 is the certified copy of the petition in O.P.No.2473 of 2016 filed by the petitioner for divorce.

iii. Ex.P3 is the certified copy of the judgment and decree dated 21.02.2017 in O.P.No.2473 of 2016.

iv. Ex.P4 is the certified copy of the common fair order and decretal order dated 09.04.2018 in I.A.No.3202 of 2017 and 150 of 2018 in O.P.No.2473 of 2016.

v. Ex.P5 is the certified copy of the judgment and decree dated 24.01.2019 in O.P.No.2473 of 2016.

vi. Ex.P6 is the petitioner's income tax returns for the assessment year 2016-2017.

vii. Ex.P7 is the petitioner's declaration of willingness to act as guardian to the minor daughter Nia Saji.

viii. Ex.P8 is the photocopy of the petitioner's Aadhaar bearing No.9978 1624 2684.

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5. He further submits that the respondent did not take care of the minor child or provide maintenance. He also submits that the petitioner is financially stable and she is in a position to ensure the welfare of the minor child. For all these reasons, the learned counsel submits that the petition is liable to be

allowed.

6. Upon considering the submissions of the learned counsel and on examining the evidence recorded in this case, the following are evident.

i. The minor child was born at Apollo Hospitals, Greams Road, Chennai, and the petitioner ordinarily resides at Chennai with the child, ie. within the jurisdiction of this Court [Ex.P1].

ii. The marriage between the petitioner and the respondent was dissolved by the judgment and decree dated 21.02.2017 in O.P.No.2473 of 2016 [Ex.P3].

iii. The petitioner has submitted her income tax returns for the assessment year 2016-17 [Ex.P.6] so as to establish her financial status.

iv. The petitioner has provided a declaration of willingness to act as a guardian to her minor daughter which has been duly attested by two witnesses [Ex.P7].

7. Upon examining the above, it is clear that all the legal requirements for being appointed as a guardian of the person of the minor child have been satisfied by the petitioner and I am satisfied that the petitioner is in a position to ensure the welfare of the Minor. It is also stated in the petition that no application was filed previously with regard to the custody of the Minor. Consequently this petition is liable to be allowed.

8. Therefore the petitioner, Nancy Samuel, is appointed as the guardian of the person of her minor daughter, Nia Saji, who was born on 20.06.2012 with custody.

04.12.2019

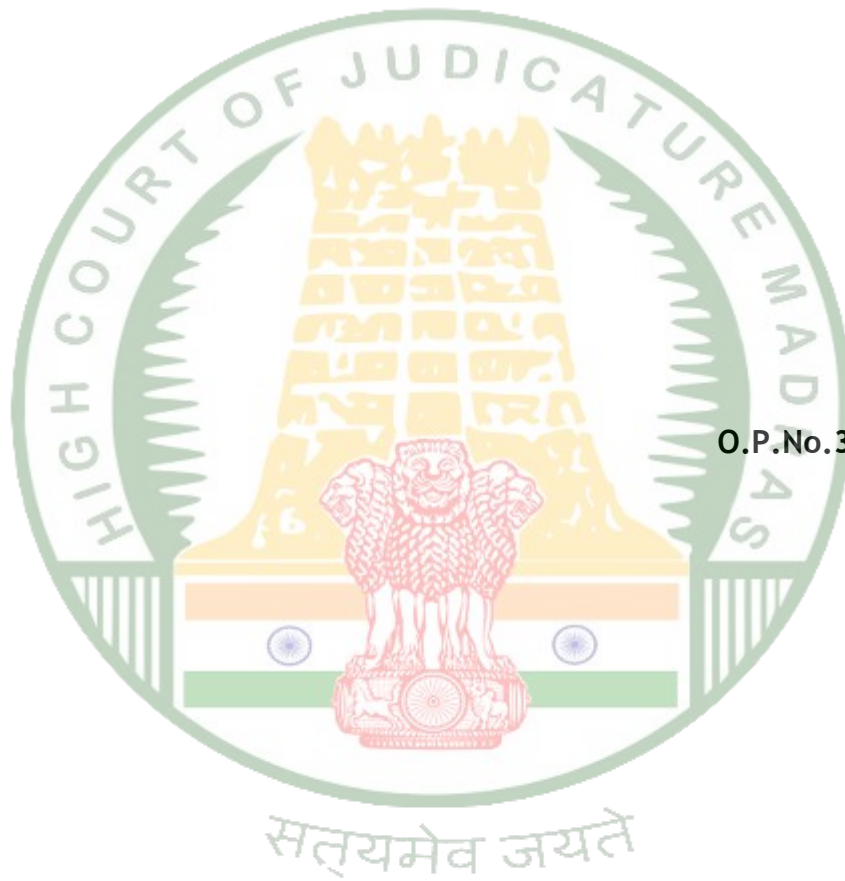
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