

O.P.No.628 of 2017 &
O.A.No.764 of 2017 & A.No.4518 of 2017

K.KALYANASUNDARAM., J

This petition has been filed under Section 25 of the Guardian and Wards Act r/w Order XXI Rules 2 and 3 of the Madras High Court Original Side Rules, to grant permanent custody of the minor child V.Elakiya to the petitioner.

2. It is the case of the petitioner that he married the respondent on 11.11.2012 at Arulmighu Arulgnana Balamurugan Temple, Edappadi, Salem District, in accordance with the Hindu Rites and Customs, and it was an arranged marriage. During the lawful wedlock, a daughter by name V.Elakkia, was born to them on 18.07.2013. At the time of marriage, the petitioner was working as a Medical Representative and after few months of the marriage, the petitioner noticed the behavioral abnormalities of the respondent and he left the job and started a mobile shop at Edappadi for taking care of the respondent.

3. It is stated that when the petitioner reported the behaviour of the respondent to her parents, they ignored and blamed the petitioner as if he had tortured his wife due to which, she developed mental illness. During the seventh month of pregnancy, the respondent was very sick and shown patent psychological symptoms. Hence, the petitioner took her to Dr.Balamurugan, Neurologist at Salem. During the check up, it was informed that the respondent has been suffering depressive disorder prior to marriage and was treated by Dr.Baskar, M.D., (Psychologist).

4. It is alleged that suppressing all the facts, the respondent's parents performed the marriage. The respondent was taken for delivery to her parents house and when she returned after child birth, the behaviour of the respondent got drastically worsened. Despite the same, the petitioner had taken sincere efforts to get treatment to the respondent and she was under medication and she took medicines as prescribed by Dr.M.Rajeswarai, Psychiatrist, but her parents did not accept the problem of their daughter and they objected for treating the respondent by a Psychiatrist. Therefore, the petitioner shifted the family from Edappadi to Namakkal and after shifting the residence, the petitioner put the minor child Elakia in Pre K.G. at Euro Kids, Namakkal.

5. It is the case of the petitioner that despite the treatment at times, the respondent used to behave very violent and she attempted to commit suicide twice and she was rescued by the petitioner. Even after shifting to Namakkal, the respondent's parents interfered with the treatment of her daughter and fought with the petitioner for treating her. During 2016, they took up the respondent and the child, when the petitioner was not at home. When the petitioner requested them to send the respondent and their child with him, they refused to listen his plea. Hence, the petitioner lodged complaints to the Inspector of Police, Edappadi, the Superintendent of Police, Salem, the District Collector, Salem and to the District Legal Services, Salem to rescue of the respondent and the minor child.

6. It is further alleged that the parents of the respondent stopped the petitioner from visiting the child at the respondent's parents house and the child was very weak and deprived of the protection, love and affection of the father. The child was constantly expressing her wishes and willingness to go with the petitioner. Since the respondent is incapable of taking care of the minor child, it is necessary for the child to have the care and protection of the father. Hence, the petitioner took the minor child and

shifted to Chennai and secured admission in a reputed School at Vadapalani. In view of the welfare and safety of the child, the permanent custody has to be granted to the petitioner. The paramount consideration of the well being of the minor child will be best served by granting permanent custody of the minor Elakiya to the petitioner.

7. Heard Mrs.A.Arulmozhi, learned counsel for the petitioner. Despite service of notice and the name of the respondent having been printed in the cause list, there is no representation on behalf of the respondent.

8. The petitioner examined himself as P.W.1 and filed proof affidavit, reiterating the averments contained in the petition and marked Exs.P1 to P12 viz.,

Exs	Documents	Dated
P1	Original Birth Certificate of Minor V.Elakiya	19.07.2013
P2	Photocopy of the Medical Certificate of the respondent issued by Dr.N.Balamurugan, Neurologist	09.05.2013
P3	Photocopy of the CT Scan report and prescription of the respondent	06.10.2014
P4	Photocopy of the fees receipt of Minor V.Elakiya	04.06.2016
P5	Photocopy of the complaint given by him to the Inspector of Police, Edappadi	15.10.2016

Exs	Documents	Dated
P6	Photocopy of the C.S.R given by the Inspector of Police, Edappadi	22.10.2016
P7	Complaint given by him to the Superintendent of Police, Salem	18.11.2016
P8	Copy of the legal notice issued by him	27.12.2016
P9	Photocopy of the petition given before the District Legal Services Authority, Salem and the proceedings in LSA No.172/17	06.03.2017
P10	Photocopy of the complaint given by him to the District Collector, Salem	20.03.2017
P11	Original legal notice caused by petitioner's counsel to Inspector of Police, Edappadi	03.08.2017
P12	Original fees receipt of Minor V.Elakiya	04.08.2017

9. Considering the averments made in the petition, the submission of the learned counsel for the petitioner and taking note of the fact that the minor child is stated to be under the custody of the petitioner/father, this Court is inclined to allow the petition. Accordingly, the Original Petition is allowed. Consequently, connected applications are closed.

WEB COPY

31.10.2019

r n s

O.P.No.628 of 2017 &
O.A.No.764 of 2017 & A.No.4518 of 2017

K.KALYANASUNDARAM., J
r n s



O.P.No.628 of 2017 &
O.A.No.764 of 2017 & A.No.4518 of 2017

WEB COPY

31.10.2019