

O.P.No.46 of 2020

R. PONGIAPPAN, J.

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, seeking appointment of the petitioner as the Guardian of the person of the minor child K.Shamruti aged two and half years till she attains majority.

2. The case of the petitioner is that the petitioner married the Respondent on 21.08.2016 at Madurai and started their marital life at Chennai at the residence of the Respondent. The Petitioner and Respondent are working in Chennai and out of their wedlock a female child was born on 03.06.2017 by name K.Shamruti. The minor child is under the care and custody of the Petitioner ever since her birth. The ordinary residence of the Petitioner and minor child falls under this Court's jurisdiction.

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3. It is the further case of the Petitioner that even after the marriage, the Respondent's family members especially the father of the respondent

insisted dowry and treated the petitioner as a slave and they forced the petitioner to quit her job. Though the Respondent is very affectionate with the Petitioner, due to the misguidance of the Respondent's father and elder sister he started to blame the Petitioner. After the child birth the Petitioner was staying at her parents' house due to the caesarean operation she went to the matrimonial home nine month after the birth of the child, the Respondent's father and sister are ill-treated her and the Respondent coerced the petitioner to shift the residence to Madurai. As the Petitioner was working at Chennai, she could not comply with the condition of the Respondent to go to Madurai. During January 2018 since the Respondent went to Madurai leaving the Petitioner and the child, the Petitioner finding no other option, to look after the child, she came to her parents' house at Chennai.

4. It is also the case of the Petitioner that the age of the minor child is two and half years and the Respondent is not helping the Petitioner and minor child in any manner, only the Petitioner has taken up the responsibility of paying school fees and other expenses of the minor child

and the Respondent has never bothered to send any school expenses and other expenses of the minor child. Under these circumstances, the welfare and interest of the minor child deserves immediate declaration of her as Guardian and hence seeking permission of this Hon'ble Court to declare the petitioner as Guardian of the minor child – K. Shmruti, aged about two and half years. It is further stated that she has not filed any other petition before any other court.

3. Despite Notice taken by the Petitioner for five times to the Respondent the same has been unsuccessful. Hence the Petitioner was directed to take substitute service. Accordingly, publication had been effected. Even after the paper publication none have been appeared on behalf of the Respondent. Hence, the Respondent set exparte on 16.02.2021.

4.The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and marked Ex.P.1 to P.6.

5. P.W.1 in her evidence has stated that petitioner married the

Respondent on 21.08.2016 at Madurai. Ex.P.1 is the Photo copy of the Marriage Certificate bearing Serial Number as 840 of 2016. Ex.P.2 is the birth certificate of the minor child who was born on 03.06.2017. Ex.P.6 is the Declaration of Willingness give by the Petitioner.

6. Considering the averments made in the petition and on perusing the materials available on record, I am of the opinion that the petitioner is entitled for the reliefs as sought for in the petition. Accordingly, this petition is ordered. The petitioner is appointed as Guardian of the person of the minor child – K.Shamruti aged two and half years till she attains majority. 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.

26.02.2021

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