

O.P.No.515 of 2021

V.PARTHIBAN, J.

This petition is filed under Sections 3 and 7 to 10 and Section 25 of the Guardians and Wards Act and under Order XXI Rule 2 & 3 of Original Side Rules seeking permanent custody of minor child, Jafina J, born on 07.02.2013 and currently aged almost 8 years, be granted to the petitioners and that the petitioners be appointed as the Guardian of the person of the minor child Jafina J.

2. The petitioners state that the first petitioner's sister and the second petitioner's sister-in-law namely M.Jamseth Safrin was married to Mr.J. Mohammed according to Muslim rites and customs on 21.06.2012 at Chennai. From and out of the wedlock, a girl baby by name J.Jafina was born on 07.02.2013. The minor child's biological mother was very anaemic and citing her ill health and physical metabolism, the biological father of the child abandoned her as well as the minor child. Subsequently, the minor child's mother died on 10.02.2013. Even after the death of the mother, the minor child's father did not take care of the child and left the child in lurch.

Left with no other option, the maternal grandparents of the minor child namely Mrs. Dilsath Begum and her husband Alauddin, continued to bring up and maintain the child. Subsequently, the grandfather of the minor child died on 23.11.2020. Thereafter, the responsibility fell on the maternal grandmother whose health did not permit to bring up the child. Therefore, the first petitioner who is the maternal uncle of the minor child and his wife the second petitioner have come forward to bring up the child along with their two minor children. They came to know from reliable sources that the father of the minor child had contracted second marriage and living happily with his second wife and the children born to them. The first petitioner was running a Cake shop under the name & style of Jeffy Cafe, catering to IT companies and was earning Rs.30,000/- apart from undertaking other party orders etc. The 2nd petitioner is also engaged in home tuition. Therefore there is no financial hindrance or fiscal detriment in bringing up the minor child together with their children. Thus, the petitioners have come up with the present petition.

3. The first petitioner Mr.A.Mohamed Saleem examined himself as

PW1 and marked Exs.P1 to P10. Ex.P1 is the photocopy of the Marriage Certificate dated 24.06.2012. Ex.P2 is the computer generated birth certificate of minor child M.Jafina, who was born on 07.02.2013. Ex.P3 is the photocopy of the employment office letter dated 01.05.2019 issued to the 1st petitioner by Taste Tune Food Products Private Limited. Ex.P4 is the computer generated death certificate of Jamseth Safrin M. who died on 10.02.2013. Ex.P5 is the online copy of the statement of accounts as on 20.02.2021 in respect of account No.269801501807, maintained by the 1st petitioner Mohamed Saleem with the ICICI bank. Ex.P6 is the computer generated birth certificate of M.Safrina, registered on 17.05.2019. Ex.P7 is the photocopy of the 1st petitioner's Aadhaar card bearing No.2784 7241 1226. Ex.P8 is the photocopy of the Aadhaar card of the 2nd petitioner Ruhi Sulthana bearing No.6162 6203 6578. Ex.P9 is the photocopy of the Aadhaar card of the minor child J.Jafina bearing No.8131 4978 1486. Ex.P10 is the declaration of willingness given by both the petitioners.

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4. The 3rd party, one Mrs.Mohammed Ayisha Beevi, was examined as P.W.2. She has filed an affidavit which was marked as Ex.P11. She states

that she know the 1st and 2nd petitioners for a considerable long span of time. She further states that the respondent is not fit to bring up the child. Therefore, she prays for appointment of the petitioners as guardian of the minor girl child, J.Jafina.

5. Considering the averments contained in the petition and the oral and documentary evidence let in, this Court is satisfied that the petitioners are fit and proper person to be appointed as Guardians of the minor child, Jafina J. Accordingly, this petition is ordered. The petitioners shall execute a Guardian Bond of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar (O.S.-II), High Court, Madras.

31.08.2021

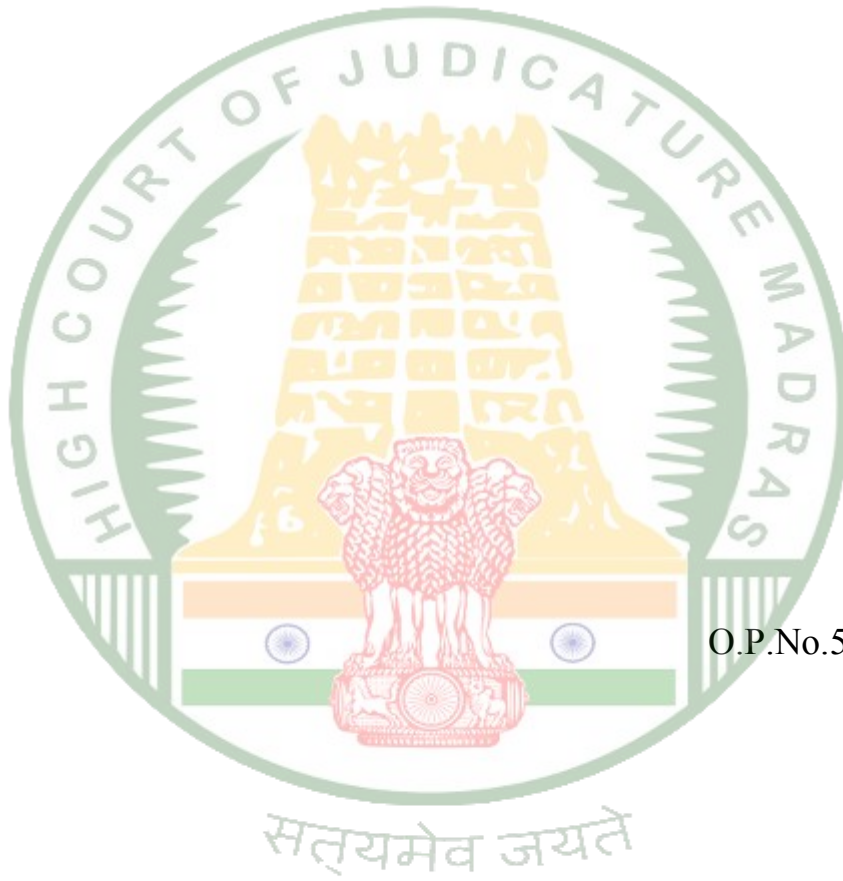
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Note to office:

Issue order copy on 03.09.2021

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