

O.P.No.79 of 2018**V.PARTHIBAN, J.**

This Petition has been filed under Sections 3, 7, 8, 9, 10 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of Original Side Rules and Clause 17 of the Letters Patent (i) to grant permanent custody of the minors M.Varshini, born on 27.04.2009 and M.Harrishraj born on 19.01.2011 to the petitioner; (ii) that the petitioner may be appointed as the guardian of the Minors M.Varshini and M.Harrishraj.

2. The case of the petitioner is that the petitioner and the respondent got married on 04.09.2008 as per Hindu Rites and Customs. Out of the wedlock, a female child viz., M.Varshini was born on 27.04.2009 and a male child viz., M.Harrishraj, was born on 19.01.2011. The petitioner states that initially, they led a happy life with the income derived by the petitioner and the petitioner has also taken care of the respondent and his children. As days go on, to the shock of the petitioner, the respondent was having illegal intimacy with one Senthil @ Babu. Though efforts taken by the petitioner to change to respondent's attitude towards her illegal intimacy, the respondent had not changed her attitude and continued to be in relationship with her

paramour. Therefore, the petitioner filed H.M.O.P.No.98 of 2016 seeking divorce and the same is pending before the First Additional Family Court, Chennai. In the meanwhile, the children of the petitioner are suffering, since the respondent is not taking care of the welfare of the children. Therefore, the petitioner is before this Court seeking the above prayer.

3. The petitioner, who examined himself as P.W.1, reiterated the averments made in the petition and marked Ex.P1 to P.18. Ex.P1 is the web copy of the birth certificate of the minor M.Varshini dated 27.04.2009. Ex.P2 is the original family photo of the petitioner and the respondent along with their first child. Ex.P3 is the web copy of the birth certificate of the minor M.Harrish Raj dated 19.01.2011. Ex.P4 is the original family photo of the petitioner and the respondent along with their two children. Ex.P5 is the original Invitation for the Ear boring ceremony for both the children dated 07.09.2014. Ex.P6 is the photostat copy of the certified copy of the petition filed by the petitioner in H.M.O.P.No.98/2016 dated 28.12.2015. Ex.P7 is the photostat copy of the complaint given by the petitioner's mother to the Inspector of Police, S10, Police Station, Palikkaranaï for the aforesaid complaint dated 18.01.2016. Ex.P8 is the photostat copy of the CSR

No.35/2016 issued by the Inspector of Police, S10, Police Station, Palikkaranai for the aforesaid complaint dated 18.01.2016. Ex.P9 is the photostat statement given by the petitioner to the Inspector of Police, S10, Police Station, Palikkaranai along with the typed copy dated 19.01.2016. Ex.P10 is the photostat order passed by the Hon'ble Madras High Court in CrI.O.P.No.1866/2016 dated 29.01.2016. Ex.P11 is the original photos pertaining to the incident on 25.06.2016. Ex.P12 is the CD copy of the CD containing the CCTV Footage. Ex.P13 is the photostat copy of the letter written by the petitioner to the Secretary of the G.R.Complex Apartments, the flats where the respondent is residing seeking permission for the CCTV footage dated 28.06.2016. Ex.P14 is the photostat copy of the Income Certificate dated 25.02.2017. Ex.P15 is the original photos of the minor M.Varshini. Ex.P16 is the photostat counter filed by the respondent in H.M.O.P.No.98/2016 dated Nil.04.2017. Ex.P17 is the photostat copy of the common affidavit filed by the petitioner in support of IAs in H.M.O.P.No.98/2016 dated 21.11.2017. Ex.P18 is the original photo of minor Harrish Raj.

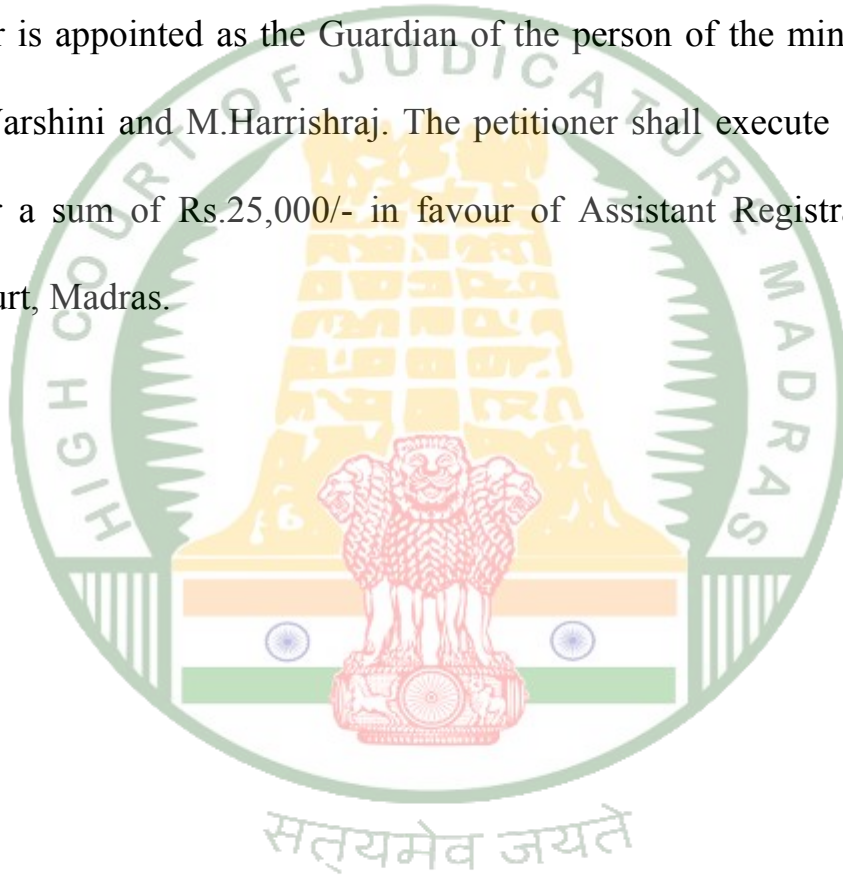
4. Considering the averments made in the petition and on perusing

the materials available on record, this Court is of the opinion that the petitioner is entitled for the relief as sought in the petition.

5. Accordingly, this petition is ordered as prayed for and the petitioner is appointed as the Guardian of the person of the minor children viz., M.Varshini and M.Harrishraj. 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.

07.10.2021

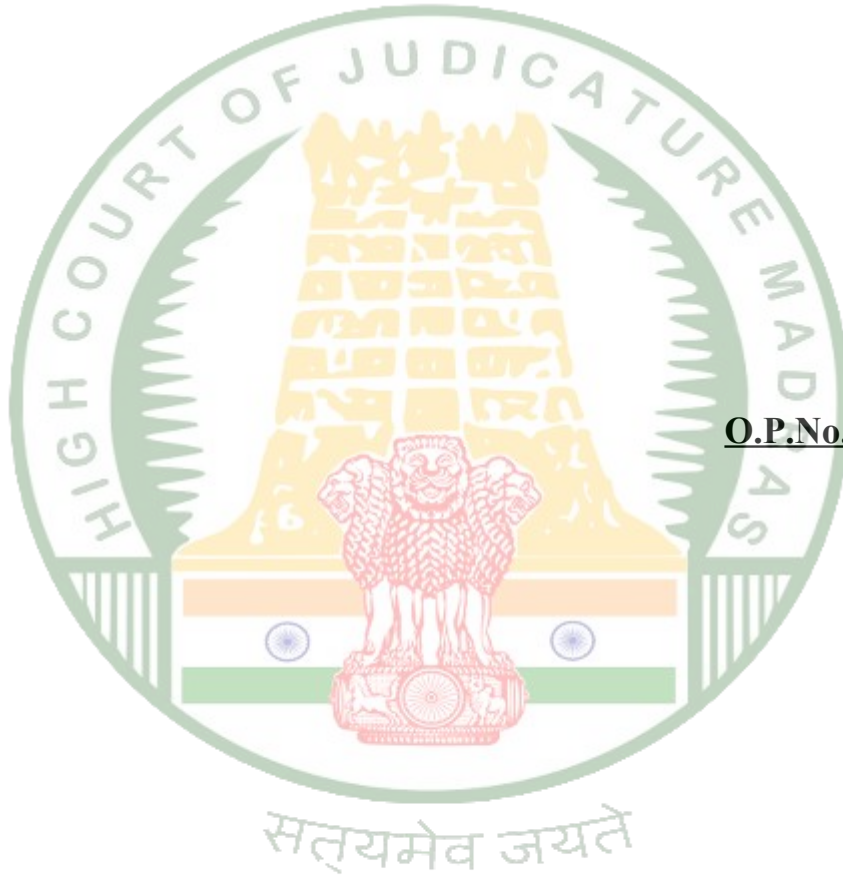
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