

O.P.No.474 of 2020 and
O.A.No.567 of 2020

R. PONGIAPPAN, J.

This Original Petition has been filed under Sections 3, 7 to 10 and 25 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 M.S. Vishal Karthik born on 27.05.2014 and also for granting permanent custody of the minor child M.S. Vishal Karthik.

2(a) It is the case of the Petitioner that she got married to the Respondent on 11.09.2013 at Chennai as per the Hindu rites and ceremonies. The marriage was registered at the office of the sub-Registrar, Ashok Nagar, Chennai. In the lawful wedlock, a male child M.S.Vishal Karthik was born to them on 27.05.2014.

2(b) The Petitioner's father has been running a Matrimonial Bureau over the last 30 years and the Petitioner and her brother were assisting him. While choosing a marriage alliance for the Petitioner, her family was keen to

have a Groom from Ashok Nagar only, so as to enable the petitioner to look after the family business. The Respondent and his family were all well aware of the family business and responsibility of the Petitioner and they were agreed to all the requirements of the Petitioner. After the marriage the Petitioner and the Respondent were started living in a rented flat at Ashok Nagar, which was proximate to both their parents' house. After few months later there were misunderstanding between the Petitioner and the Respondent. When the Petitioner conceived shortly after marriage, the respondent and his parents did not support the Petitioner in any manner. After she delivered a male child on 27.05.2014 the Respondent and his parents merely visited in the hospital and showed no interest or responsibility to take care of the child. Hence, the petitioner started staying in her father's house and took care of the child for some time and went back to her matrimonial home along with her child.

2(c) In the mid of the year 2014 the Respondent lost all his constructive work and he started bothering the petitioner for financial support. The Petitioner's father inducted him into his business and paid

Rs.25000/- per month initially as salary which was increased to Rs.75000/- p.m. over a period of time. The respondent was happy with the payments but not contributing proportionately in terms of service for the salary paid to him. In the year 2015, when the petitioner conceived for a second time the respondent insisted her to abort the child, behaved like a mad man, shouting at top of his voice. The Respondent had no other option and she had to abort the child abiding to the dictates of the respondent.

2(d) In December 2018, the Petitioner's father bought one ground of land at Madambakkam, Chennai in his name and the petitioner's name. When the same was informed to the Respondent he took it very offensive and he had a grudge that the petitioner's father had not purchased the property in his name. The Respondent thereafter started conditioning her that she cannot meet her father. During the same month the respondent asked the petitioner's father about his position in the family business to which the petitioner's father replied that the respondent was Manager by designation. But his anticipation was he would be made a partner or owner of at least a sister concern. Since it did not happen, he started abusing the

petitioner's father and demanded him to buy a Flat in Ashok Nagar for One Crore Rupees. As the petitioner's father had not accepted his demand, the respondent shouted and created ruckus demanding a flat and gave an ultimatum that the demand should be complied as a Pongal gift.

2(e) Two days prior to the marriage engagement of the petitioner's brother, i.e., on 18.10.2019 nigh the Respondent created a scene by knocking the doors in a totally drunken state. The petitioner's father called the respondent's brother and the police for help as the respondent was very violent. Again on the next day early morning the respondent came to Petitioner's father house and jumped over the gate smashed the milk packets and created a big scene in front of the house. The petitioner called the police, they removed the respondent from that place and summoned all the parties for enquiry on 19.10.2019 and warned the Respondent not to behave in this manner in future.

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2(f) The respondent did not keep up his words and within a short period he came to the Petitioner's house and insisted that he would alone

take the child to school and drop him back. Out of compulsion the child was allowed to be taken by the Respondent to the school much against the wishes of the child and the petitioner. The respondent forcefully gained entry into her father's house everyday and dragged the child to the school along with him much against the child's wishes. The Petitioner approached the police for seeking some guidance on this matter. The respondent was called to the Police Station and he told the police that they had no authority to question his right to take his child to the school. Hence, the police advised the petitioner to seek legal remedy insofar as the child's custody was concerned. The Respondent has not spent any quality time with the child and he is only using the child as a tool to settle scores with the petitioner's father, her brother and the petitioner. Hence, for the welfare of the child she prays this Court to appoint her as the Guardian of the minor child M.S.Vishal Karthik born on 27.05.2014 and grant permanent custody of the minor child to the Petitioner. It is further stated that she has not filed any other petition before any other court.

3. Despite notice served to the respondent he has not appeared before

this Court. Hence, this Court directed the registry to print the name of the Respondent in the cause list. Though the name of the Respondent was shown in the cause list repeatedly, he has not chosen to appear before this Court. Hence, the Respondent was set exparte on 18.01.2021 and referred the matter before the learned Master for recording evidence.

4.The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and marked Ex.P.1 to P.19.

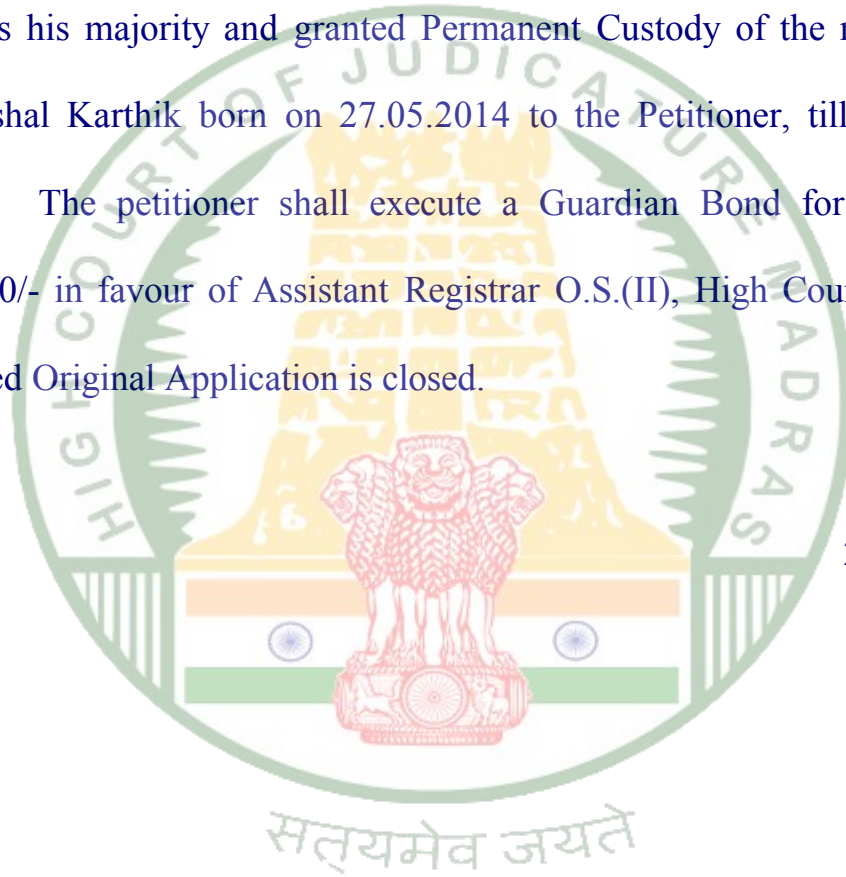
5. P.W.1 in her evidence has stated that petitioner married the Respondent on 11.09.2013 at Chennai. Ex.P.1 is the Marriage Invitation Card of the Petitioner with the Respondent. Ex.P.3 is the photo copy of the Marriage Certificate dated 21.11.2013. Ex.P.4 is the computer generated birth certificate of the minor child M.S.Vishal Karthik, who was born on 27.05.2014. Exs.P.11 and 12 are photocopy of the CSR dated 19.10.2019 and 08.01.2020 registered against the respondent.

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 as prayed for. The petitioner is appointed as Guardian of the person of the minor child – M.S. Vishal Karthik born on 27.05.2014 till he attains his majority and granted Permanent Custody of the minor child M.S. Vishal Karthik born on 27.05.2014 to the Petitioner, till he 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. Connected Original Application is closed.

25.03.2021

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