



O.P.No.156 of 2021

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C.V.KARTHIKEYAN,J.

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This original petition has been filed taking advantage of Section 25 of Guardians and Wards Act, VIII of 1890, seeking a declaration that the petitioner should be declared as the guardian of his daughter S.Samana who was born on 13.01.2012 and also to retain permanent custody of the said child.

2. The petitioner R.Srikanth was married to the respondent J.Revathy on 24.01.2011. They were both well qualified and were both employed at the time of their marriage.

3. In the petition filed, the petitioner has given a long list of grievances complaining that the respondent never led a normal marital life, leading to series of differences of opinion. It was stated that she was quite irregular even in attending office and consequent to that she also lost her job in November 2012. The respondent also had the habit of picking quarrels with petitioner's parents. On one occasion this moved over to the zone of consideration by the jurisdictional police station.

4. It is stated by the learned counsel for the petitioner that the respondent had also sold all her jewels and her laptop without the knowledge of petitioner. Thereafter, in 2015 the petitioner secured a job in Coimbatore.



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But the respondent refused to stay and live with him. There were again complaints about the behaviour of the respondent.

5. The respondent also had to undergo treatment in Psymed Hospital in January 2019. She was shifted to Schizophrenia Research Foundation and she took treatment in May 2019. The child was with the petitioner and his parents at the time of her treatment.

6. Frustrated with continuous mental agony caused by the respondent, the petitioner had also filed O.P.No.2552 of 2020 under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955 seeking dissolution of the marriage. I am informed that the VI Additional Family Court, Chennai by judgment dated 18.11.2022, noting the absence of the respondent had also dissolved the marriage.

7. The present Original Petition, had been filed in January, 2021. Paper Publication had to be directed to the respondents since the private notice issued was returned as refused. The respondent still did not appear before the court.

8. On 26.07.2021, a learned Single Judge of this court, *V.Parthiban,,J*, observed that the respondent had not responded to notices being ordered half a dozen times and even after paper publication had been effected and satisfied



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with the reasons advanced on behalf of the petitioner, granted interim custody of the child S.Samana to the petitioner herein.

9. I am further informed that the petitioner herein taken custody of the child and the child is with the petitioner. He and his parents are now living in Chennai. The child is now studying in VIth standard in DAV Public School.

10. The petitioner stated that he also had discussions with the parents of the respondent and also with her elder sisters and they opined that, it would be in the interest of the child that the petitioner retains custody.

11. A perusal of the petition also shows that the respondent had deliberately and consciously taken a decision not to appear before this court and also before the Family Court also and had suffered a decree of divorce.

12. The matter had been listed today for appearance of the petitioner who is present at the chambers along with his learned counsel.

13. On inquiry the petitioner again affirmed that the child is in his custody and is going to school and that he would continue to take care of the child and has no adverse or conflict of interest with the general welfare of the child. The parents of the petitioners are also staying with him. He has now shifted his residence quite close to the school where the child is studying. The petitioner is also profitably employed in a software company dealing with



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formulating software for the banking industry.

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14. It is stated that the respondent does not have any permanent employment and is now doing freelancing in Human Resource Development and it is stated by the petitioner that she could not be approached and has resisted receiving notices issued by the court.

15. It would however be advisable but not directed that the petitioner should open a separate bank account and deposits in the nature of recurring deposits for a continuous period, any amount which is possible, which on a later date, he could transfer to the respondent for her utilization of any specific purpose.

16. Taking into consideration all these facts, in order to give quietus to the trauma of the child, the petitioner is declared to be the guardian of the child S.Sameena who was born on 13.01.2012. The petitioner is also granted permanent custody of the child.

17. This Original Petition stands allowed. The petitioner is appointed as guardian of minor child S.Samana.

03.11.2022

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