



**Tr.O.P.No. 244 of 2019
And
O.P.No. 907 of 2018
And
A.Nos. 4844 & 4845 of 2021
And
A.Nos. 46 & 47 of 2022**

C.V.KARTHIKEYAN, J.

Common order is passed in both the Original Petitions since both the Petitions have been filed parallely under Section 7 of the Guardian and Wards Act, 1890 seeking custody and Guardianship of two children, who were at the time of filing the petitions, minors, K.G.Nandakishore and K.G.Vishwapriya.

2. The petitioner in O.P.No. 907 of 2018 is the maternal grand father K.Venkateswaralu and the respondent is the father K.V.Gopikrishna. In G.W.O.P.No. 244 of 2019 which was originally filed as O.P.No. 1922 of 2017 before the Family Court at Chennai and subsequently transferred to the Original Side of the Madras High Court, the father of the two children, K.V.Gopikrishna is the petitioner and the maternal grandfather K.Venkateswaralu and his wife / maternal grandmother, K.Revathi, are the respondents.



3. It must also be mentioned that by passage of time the first child K.G.Nandakishore had attained the age of majority and is now capable of taking a decision by himself. Both the Petitions do not survive with respect to him. The second child K.G.Vishwapriya was born in January 2006 and is less than 60 to 75 days she would also attain the age of majority.

4. Both the petitions had been very deeply contested. Counters were been filed.

5. The mother of the children, Sunandha had unfortunately committed suicide on 03.07.2015. The maternal grand parents, not able to reconcile with that particular happening have filed the Petition seeking custody and guardianship of the two minor children questioning the right of the father to continue to act as the guardian.

6. After filing counter, both the parties also adduced evidence and cross examination mainly veered around the two flats which stood in the name of the mother of the two children, one of which is the central focus of a litigation now before the City Civil Court at Chennai wherein a financier, who had advanced money for



the purchase of the flat had instituted a suit seeking recovery of the amount advanced. With respect to the other flat, it is contended that the father is paying the equal monthly installments to the creditor. The father is also in possession of two separate flats in his name.

7. Possession of properties naturally leads to disputes. A claim is made that the children are deprived of their share and apprehension is also raised that they might be deprived of a share even in the properties left behind by the mother. It must also be mentioned that the mother Sunandha was employed in IDBI Bank at the time of death and naturally, amounts were due and payable by the said bank and a major portion which had been so paid had been received by the father of the children. There is no dispute that a further portion is payable but which the Bank had held back towards the outstandings due for loans advanced and I am informed that a Writ Petition is now pending relating to the said issue. The fact is that the father had received a portion of the terminal benefits of the mother of the children.

8. The maternal grandparents have filed applications which are pending for a direction against the father to deposit the



title deeds relating to the two properties in the name of the mother and also to deposit the portion of the terminal benefits which he had received from terminal benefits of his wife Sunandha.

9. In those two applications, quite unfortunately the maternal grandparents in their affidavit had given the age of the two minor children wrongly and therefore two other applications are also pending seeking to correct the age. The applications are A.No. 4844 of 2021, which was to deposit a share of the amounts received from the terminal benefits of the mother and A.No. 46 of 2022 to carry out necessary amendment in the said application relating to the age of the two children. The other application relating to deposit of title deeds is A.No. 4845 of 2021 and the applications seeking to carry out amendment of the age of the two minor children is A.No. 47 of 2022.

10. This Court had quite apart from perusing the records and hearing the learned counsels, also had the benefit of interaction with the two children in the Chambers on 17.11.2022. The boy K.G.Nandakishore who has now attained the age of majority is studying in SRM College in a Automation and Robotic related subject. He is in the Second year. He spoke



enthusiastically about the projects done by him with his friends in college. The focus on his college activities is deeply appreciated as that should be his primary interest at this age.

11. The daughter K.G.Vishwapriya, who will be turning the age of 18 in January 2023 has just joined the same college / SRM College in BDS Course. She expressed great enthusiasm in going to college. I am confident that not only her father, but also her grand parents will hope for a bright future for her.

12. Both the children are confident and look forward to life in future. The Court had fruitful interaction with them and impresses them that at age, it would only be to their advantage that they focused on their studies and not on material aspects of property and money. To the extent to which the Court had been informed, the father is paying the educational fees and bearing other expenses of the two children. The children go to college by the college bus.

13. On that same day, 17.11.2022, the maternal grandparents Mr.K.Venkateshwaralu and his wife K.Revathy were also present. The father of the two children was not present. The



matter was then adjourned to 23.11.2022 requiring his presence since it was stated that he was employed in SIDBI and posted in Ludhiana, Punjab. It was stated that he would be coming over to Chennai on 20.11.2022. However, he did not appear on 23.11.2022. The matter had been subsequently listed today on 29.11.2022. It is again stated that he could not come and as a matter of fact, a memo has also been filed along with an electronic mail received by the learned counsel stating his inability to attend.

14. Let me pass final orders in the Original Petitions.

15. The thrust of the case of the father is that he is taking care of the financial requirements of the two children and also providing for their education. He is also employed. It was insisted at one point that the children could stay with him in the flat where they were staying along with the mother. However that particular flat is now occupied by a tenant and efforts taken by the father to take back vacant possession had not been fruitful.

16. The focus of the cross examination of both the father and of the maternal grandfather revolved primarily around the two flats of the mother and the terminal benefits received by the father.



WEB COPY

17. In view of that particular fact and in view of the fact that there is less than two months time before K.G.Vishwapriya would be attaining the age of majority, let me not disturb her guardianship and retain the guardianship with the father and also grant permanent custody to the father. However this would not mean that the grand parents have been excluded. They are very much an essential part in the life of two children. They had rushed to the assistance of the children at the time of despair and had taken the two children under their care.

18. The filing of the two applications, namely, A.Nos. 4844 & 4845 of 2021 only reflect their interest in protecting the assets of their daughter/mother of the two children and ensure that the said assets are not dealt with by the father to the disadvantage of the two children. The filing of these two applications have to be appreciated as it only reflects their concern for the future of the children and it is common knowledge that only financial security and security by way of landed property are of utmost of importance.

19. I would therefore not enter into a detailed discussion on the adversial line of cross examinations adopted by both the



learned counsels. Let me draw a balancing line and state that permanent guardianship to be retained by the father and also, the custody is to be retained by the father.

20. However, with respect to the properties in the name of the mother, namely, the two flats at Vijayashanti Buildings, Kandigai, one of which is the subject of a litigation in the City Civil Court and the other is vacant, I would direct the father to deposit the title deeds of the two properties in any Nationalised Bank or any bank where he has an account and open a separate locker account and deposit the two title deeds of two flats in that particular locker account and disclose the details of the account of the locker to the two children.

21. This would render protection of the two flats and would also give a sense of security to the two children that the properties which stand in the name of their mother are secure. If the City Civil Court passes adverse orders to the interest of the parties then nobody can complain because that would be a Judgment by a competent Court. Till such time, let the title deeds be deposited in a separate locker and the father should intimate the two children about the deposit of the title deeds. Such deposit and intimation should be done on or before 31.12.2022.



WEB COPY

22. I am confident that the learned counsel for the father would impress upon the father to so act.

23. The other application which had been filed by the maternal grandfather, is with respect to the sharing of the terminal benefits received by the father. A writ is pending and I am confident that the parties would appropriately address that issue.

24. The father is employed as DGM in SIDBI. He must ensure that he begins to invest in the names of the two children, even if he had done so earlier. In order to give more confidence to the two children, let the father open up a separate recurring deposit account in the names of the two children and deposit a sum of Rs.25,000/- every month. Let the period initially be for a three years and thereafter further decision can be taken.

25. The boy K.G.Nandakishore is now in his second year and would be completing his studies in two years. If he has an intention to go abroad, this amount could be spent and it would give him confidence to apply to any University of his choice and to apply for any course to his liking. K.G.Vishwapriya, the daughter has just joined college and monthly amounts in the recurring



deposit, would only add to her security and will be extremely useful when they mature not only for further educational expenses and also other expenses which a girl, growing up would incur. The father should open up these two recurring deposits of Rs.25,000/- each on or before 31.12.2022.

26. After opening the locker accounts and after depositing the title deeds and after opening the recurring deposits in the names of the two children, let the father also address the maternal grand parents on this issue. To that extent they would also be satisfied that the father being is responsible to their grandchildren.

27. These arrangements are made keeping in mind the interest of the two children.

28. I am informed that the father is also the owner of the two other flats. The father is also directed to retain the flats free from encumbrance and any one flat can be settled in the names of the two children by way of proper documentation. This would also give sufficient confidence to the two children. Such deed of settlement can be executed on or before 31.01.2023.



WEB COPY

29. In view of the above directions issued, no further directions are required in A.Nos. 4844 and 4845 of 2021 and both the Applications are disposed of. Consequent to the disposal of the A.Nos. 4844 and 4845 of 2021, A.Nos. 46 & 47 of 2022 have become otiose and are closed.

30. I would recognise the interest of both the father and the grandparents in the welfare of the two children and therefore, I would dispose of the above two original petitions but retain guardianship and permanent custody with the father and at the same time recognise the right of the grandparents to visit the two children. It is the duty of the father to encourage access of the two children to the two grandparents. A request is placed since that permanent custody is given to the father, the children may be permitted to reside with the grandparents. They may take any decision and I am confident that the father would not object to any considered decision taken.

31. In the result, both the Original Petitions are disposed of.
No costs.

29.11.2022

Index:Yes/No
Internet:Yes/No
vsg



WEB COPY



12

C.V.KARTHIKEYAN, J.

vsg

**Tr.O.P.No. 244 of 2019
And
O.P.No. 907 of 2018
And
A.Nos. 4844 & 4845 of 2021
And
A.Nos. 46 & 47 of 2022**

29.11.2022