



O.P.No.468 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Original Petition No.468 of 2014
and
Application No.4980 of 2014

Mr.Loganathan @ Shankar

... Petitioner

Versus

M.Revathi

... Respondent

Prayer: The Original Petition filed under Section 25 of the Indian Guardians and Wards Act, 1890, praying to grant permanent custody of the minor daughter Kavya shree aged about 1½ year who has been illegally removed by the respondent since 29.05.2013 to the petitioner by directing the respondent to return of custody of the minor child to the petitioner.

For Petitioner : Mr.Adi Narayana Rao
For Mr.K.Shankar

For Respondent : Mr.K.Ashok Kumar



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ORDER

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The Original Petition has been filed seeking appointment of the petitioner/father of the minor child, Kavya Shree, who was born on 14.08.2012 as her guardian both with respect to person and properties and also grant permanent custody.

2. The respondent is the maternal grandmother of the child.

3. The petitioner had married Gomathi on 20.06.2011 at Thirutani Murugan Temple. The marriage ceremony was performed in accordance with Hindu rites and customs. It was an arranged marriage. The child Kavya Shree was born on 14.08.2012. The wife of the petitioner, Gomathi unfortunately did not keep good health and committed suicide on 28.05.2013.

4. In this connection, a FIR in Crime No.826/2013 had been registered originally under Section 174 Cr.P.C., by the jurisdictional Police on a complaint given by the respondent herein. Subsequently the provision of law was altered to Section 304(b) of IPC.



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5. I am informed that after trial, the petitioner has been acquitted of all charges.

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6. The Original Petition has been filed seeking custody of the child and to be appointed as her guardian.

7. I must also state that the petitioner has stated various grievances against his wife but taking into consideration the nature of this petition, since the focus is only on the welfare of the child, I consciously take a decision not to extract those portions in the course of this order.

8. A counter had been filed by the respondent.

9. In the counter, the relationships was admitted. The marriage between the petitioner and the daughter of the respondent was admitted. The birth of the child was also admitted. But again, instead of focusing on the welfare of the child, various averments were stated, expressing grievances at the conduct of the petitioner herein.



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10. I would again not enter into any discussion on those aspects and again omit narrating those statements in the course of this order.

11. The child is now aged about 10 years old. The relationship between the parties had also thawed to a substantial extent and the petitioner and the respondent have now come to realize that they are both required for the welfare of the child. The respondent has also understood that the petitioner, as father, should be recognized as lawful guardian and should be entrusted with the responsibility to bring up his child in the best interest of the child. The respondent will always be around to support the petitioner in his endeavour to bring up the child as a single father.

12. Taking into consideration the change in attitude between the parties, this Court had invited both the petitioner and the respondent and also the child to be present. The child is now in the custody of the respondent. However, even as agreed by the respondent, the petitioner should be recognized as lawful guardian. The custody with the respondent cannot be permanent.



13. It had been noted that the child is now residing with the grandmother. She had come over to the chambers on 26.10.2022. I hold that the child should continue to study in the school, where she is now studying and it was impressed to the petitioner that he should understand that the welfare of the child is of paramount interest before he takes any decision regarding shifting of the school.

14. It is to be noted that any child of the age of 10 years, and studying in one particular school right from the beginning would have forged friendships with children of her own age and it is only appropriate that such friendships are encouraged and strengthened and a shift in the school may affect the child and she may not be able to acclimatize to the new surroundings. It was therefore urged that the child and the father may take necessary counselling to enable the child to understand the changes brought forth in her life.

15. The matter had been listed again today and it is stated that the petitioner was not able to undergo any counselling. I am confident that he



would take such steps and I would also request the learned counsels to advise their own clients particularly the petitioner that in his own interest he should attend counselling sessions along with his child. This would enable the child to understand the nature of the order to be passed.

16. Let the child continue to be in the custody of the respondent. In the meanwhile, the petitioner and the child may and the respondent may attend counselling sessions and all work together to ensure that the child has a very good future.

17. I must point out that both the learned counsels recognized that the petitioner should be the guardian of the child.

18. I would allow the petition and appoint the petitioner as the guardian of the child, in that hope that he would not act adverse to the interest of the child at any time of the future.

19. The petitioner should continue to look after the personal needs and educational expenses and also any other necessities which the child would require till she attains the age of majority.



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20. The learned counsel for the respondent may advise the respondent that it would only be advisable that the petitioner has permanent custody of the child with visitation rights of the respondent at all particular times. As a grandmother the respondent has every right to visit the child and the petitioner should also understand that particular right and extend invitation to all the relatives from his wife's family to interact with the child.

21. The permanent custody is with the petitioner but as on date. Let the custody continue with the respondent and the child should understand that she should be with the father till at least she completes the age of 18 years.

22. With the above observation, the Original Petitions stands allowed. No costs. Consequently, the connected application stands closed.

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Index:Yes/No

Speaking Order : Yes/No

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C.V.KARTHIKEYAN,J.

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