



O.P.No.172 of 2021

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WEB CO **KRISHNAN RAMASAMY.J.,**

This Original Petition is filed praying for the following reliefs:

(i) to declare the petitioner as the guardian of the minor children viz.,  
Muhthadhiya, daughter, aged about 5 years and Bilal, Son, aged about 3  
years and has got right to have custody of the minor children.

2. The case of the petitioner as culled out from the petition is as  
follows:

(a)The petitioner is the native of Aravakurichi Village, Karur District,  
now residing at No.55/AP941, 66<sup>th</sup> Street, 11<sup>th</sup> Sector, K.K.Nagar, Chennai-  
78, working as Senior Consultant, M/s.Ejada System Ltd., Riyadh, Saudi  
Arabia. The marriage between the petitioner and the respondent was  
solemnized on 18.07.2011, thereafter, they had set up their matrimonial  
home in Saudi Arabia. Out of their wed lock, two children were born  
namely, Muhthadhiya, aged about 5 years and Bilal, aged about 3 years.  
After acquisition of knowledge of the petitioner that the respondent is  
having illicit relationship with one Nissar Mohammed, outside the ambit of



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wedlock, the petitioner, who thought it appropriate to send back the respondent to India in order to stay at Bangalore with her mother along with the two children. But on arriving India, instead of going to Bangalore to stay with her mother, the respondent along with children had joined with the said Nissar Mohammed, a third party, out side the ambit of matrimonial life, who had a permanent residence at Chennai. The respondent, who is the mother of the minor children, living in Chennai is not taking care of the minor children.

(b) Further, it is submitted that notice has also been served as against the respondent but even after the service of notice and also the name printed in the cause list, none appeared on behalf of the respondent. Therefore, it is presumed that the respondent is not interested in prosecuting the case. Therefore, the petitioner seeks to declare him as the guardian of the minor children viz., Muhthadhiya, daughter, aged about 5 years and Bilal, Son, aged about 3 years and has got right to have custody of the minor children.

3. In order to prove his case, the petitioner was examined as P.W.1



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and marked Exs.P-1 to P-15. Ex.P1 is the original Marriage Invitation card dated 18.07.2011. Ex.P2 is the photocopy of the Marriage Certificate dated 19.07.2011. Ex.P3 is the photocopy of the petitioner's Aadhaar Card. Ex.P4 is the photocopy of the birth certificate of Muhthadhiya. Ex.P5 is the photocopy of the birth certificate of Bilal Naseer Ahamed. Ex.P6 is the photocopy of the Aadhaar card of Muhthadhiya. Ex.P7 is the photocopy of the Aadhaar card of Bilal Naseer Ahamed. Ex.P8 is the downloaded copy of the Covid-19 RT-PCR test report. Ex.P9 is the office copy of the legal notice dated 01.09.2020 received by the petitioner from the respondent. Ex.P10 is the reply notice dated 28.09.2020 alongwith postal receipts. Ex.P11 is the original acknowledgment card with tracking details. Ex.P12 is the print out of the e-mail sent to the petitioner's e-mail ID by the respondent. Ex.P13 is the marriage photograph of the petitioner and the respondent along with compact disc. Ex.P14 is the photograph of the respondent with Nissar Mohammed along with compact disc. Ex.P15 is the downloaded copy of the CSR Certificate from the Official Tamilnadu Police website on the police complaint filed by the petitioner's mother-in-law.



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4. Considering the oral and documentary evidence and the materials placed on record, this Court is satisfied that the petitioner has made out the case and is entitled to the relief as sought for in this Original Petition. Accordingly, this Original Petition is ordered on the following terms:

(i) The petitioner is hereby appointed as Guardian of the person of the minor children viz., Muhthadhiya, daughter, aged about 5 years and Bilal, Son, aged about 3 years and has got right to have custody of the said minor children.

(ii) The petitioner is directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar (O.S.-II), High Court, Madras.

22.07.2022

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**KRISHNAN RAMASAMY.J.,**

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