



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE **R.N.MANJULA**

O.P.No.250 of 2023

Arockiya Cletus Floria

... Petitioner

Vs.

Daniel

... Respondent

Prayer:- This Petition is filed under Sections 3,7 to 10 & 25 of Guardian & Wards Act r/w. Order XXI Rule 2 and 3 of the Original Side Rules, to grant permanent custody of the minor children (i) D.Kelvin Costner, 11 years old born on 21.02.2012 and (ii) D.Peppin, aged 7 years born on 03.09.2016 to the petitioner and to appoint the petitioner as a legal guardian of the person of the minor children.

For Petitioner : TKS.Bharathy Shri

ORDER

This Original Petition has been filed seeking permanent custody of the minor children (i) D.Kelvin Costner, 11 years old born on 21.02.2012 and (ii) D.Peppin, aged 7 years born on 03.09.2016 to the petitioner and to appoint the petitioner as a legal guardian of the person of the minor children.



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2. The petitioner is the mother of the minor children D.Kelvin Costner, 11 years old born on 21.02.2012 and D.Peppin, aged 7 years born on 03.09.2016. The respondent is the father of the minor children. The minor children are in the custody of their mother who is the petitioner herein. Due to some misunderstanding between the couple, they got separated and thereafter, the children are with the petitioner only.

3. The petitioner examined herself as P.W.1 and Exhibits P1 to P22 were marked. Ex.P1 and Ex.P2 would show that the petitioner and the respondent got married on 26.01.2011. From Exs.P3 & P4 birth certificates, it is seen that the minor children were born to the petitioner and the respondent on 21.02.2012 and 03.09.2016 respectively.

4. The petitioner has stated in her evidence that the children were ill-treated by the respondent and they were even assaulted severely. The petitioner also produced the copy of the CSR for given a complaint in this regard to police and the same is marked as Ex.P7.



5. Despite the respondent received notice, he did not make his appearance and justify his stand by refuting the allegations made against him.

6. It is further alleged that the respondent had some other woman in his life and he deserted the petitioner and the children and stopped paying maintenance to her. In such situation, it is right on the part of the petitioner to file this Petition seeking to appoint herself as guardian of the minor children and seeking permanent custody of the minor children.

7. As the petitioner is also a working woman and she is capable of meeting out the expenses for upbringing the children to some extent. The children also feel comfortable with their mother. Even if the children may not be able to live with both of their parents, they are able to live atleast with one of their parents who is their mother. Since the petitioner's involvement and bonding with the children is seen to be better, I feel in the interest and welfare of the children, the petitioner should be appointed as guardian of the minor children and permanent custody of the minor children should be given to the petitioner.



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8. In the result, this Original Petition is allowed and the petitioner is appointed as guardian of the minor children D.Kelvin Costner and D.Peppin and permanent custody of the minor children is given to the petitioner.

15.09.2023

Internet: Yes
Index: Yes/No
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R.N.MANJULA, J.

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