



WEB COPY

OSA NO.146 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

**THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

OSA NO.146 OF 2022

Harish Chandar Muralidharan ... Appellant

Vs.

Nandhini Sundar ... Respondent

PRAYER: Appeal filed under Order XXXVI Rule 1 of Original Side Rules read with Clause 15 of Letters Patent, praying to set aside the fair and decretal order dated 08.03.2022 passed in G.W.O.P.No.696 of 2021.

For Appellant : Mr.J.Saravana Vel
For Respondent : No appearance

J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

Challenge in this appeal is to the dismissal of the application for appointing the appellant as Guardian of the minor child Anjana.



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2.The appellant is the father of the minor child and the respondent is the mother. The child was born in the United States of America. It appears that the mother had left the matrimonial home and was not interested in continuing the marriage. It is also seen that the Principal Judge, Family Court, Chennai granted a decree for divorce in O.P.No.3915 of 2021 on 31.05.2022. The child, who is said to be a special child is admittedly in the custody of the father / appellant herein.

3.The Original Petition filed by the appellant was dismissed by this Court solely on the ground that the appellant being the natural Guardian and who is also having the custody of the minor, has no cause of action to seek appointment of himself as Guardian.

4.No doubt, the reason assigned by the learned Single Judge is plausible, but, considering the fact that the child is born in United States of America and is citizen of United States of America, where the Personal Laws of the parties is different, it will not be in the interest of the child to throw out an application for appointment of Guardian merely because the father happens to be the natural Guardian under the Personal Laws of the



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parties in India. Evidences has also been let in by the appellant to show that the interest of the minor will be well served if he is appointed as Guardian. The correspondence between the spouses which has been exhibited in the original proceedings shows that the respondent namely the mother of the child is not evincing interest in the child.

5.We therefore find that it will be in the interest of the minor to appoint the appellant as the Guardian as per the terms of Section 7 of the Guardians and Wards Act, 1890. The appeal stands allowed and the order of the learned Single Judge is set aside. Original Petition in O.P.No.696 of 2021 is allowed and the appellant is appointed as the Guardian of both person and property of the minor child Anjana. No costs.

[R.S.M., J.]

[R.S.V., J.]

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Internet : Yes
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Speaking Order
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