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C.M.P.No.9629 of 2024
in O.S.A No.244 of 2023

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in
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M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

(Order of the Court was made by M.SUNDAR,J.,)

Captioned 'Original Side Appeal' ['OSA' for the sake of brevity] is directed against an order dated 28.08.2023 made by the GAWA [to be noted 'GAWA' stands for 'the Guardians and Wards Act, 1890 '] Court in O.P.No.31 of 2022 and A.No.1730 of 2022 thereat. 'The Guardians and Wards Act, 1890 (8 of 1890)' shall herein after be referred to as 'GAWA and / or said Act' for the sake of convenience and clarity.

2. Father of a 6 year old minor male child 'xxx' [we are masking the name for obvious reasons and 'xxx' shall hereinafter be referred to as 'said minor' for the sake of convenience] filed O.P.No.31 of 2022 with a prayer for permanent custody of said minor. A.No.1730 of 2022 thereat



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was taken out with a prayer for interim custody for a period of three weeks in the month of May i.e., from 01.05.2022 to 22.05.2022.

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3. The GAWA Court, after hearing both sides, has disposed of aforementioned OP with certain observations and closed the application thereat vide the aforementioned 'order dated 28.08.2023' [hereinafter 'impugned order' for the sake of convenience and clarity].

4. The father of xxx, who was the petitioner before GAWA Court, is on appeal vide captioned main OSA and captioned CMP has been taken out by him.

5. Ms.Gopika Nambiar, learned counsel on record for father submits that GAWA Court has returned findings that a) there is no doubt that the father is well placed and has a good employment and b) it would have been a better arrangement to grant custody of the child between the



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petitioner and the respondents [father and his Parents-in-law/ brother-in-

law and sister-in-law] if they are living in one place. We find that GAWA Court has also returned a finding that the father can establish contact with the child whenever he wants to interact with the child either through telephone or by coming in person once in a month or through virtual mode.

6. It may not be necessary to dilate further on the above aspects and we deem it appropriate to leave open all questions to be decided in the main OSA as Mr.R.Vinayagamoorthy, learned counsel on record for all the four respondents i.e., OP Petitioner's/Appellant's father-in-law, mother-in-law, brother-in-law and brother-in-law's spouse, submits, on instructions, that the respondents consent for two weeks interim custody from 03.05.2024 to 17.05.2024.

7. Be that as it may, it is deemed appropriate to record that the mother of xxx is no more, her date of demise is 29.10.2021 and the aforementioned OP was filed after the demise of mother.



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8. In the light of consent qua interim order in captioned CMP, we

are not dilating further and we make the following order by consent:

- i) The petitioner will come over to Chennai and take interim custody of the minor child xxx on 03.05.2024;
- ii) Respondents shall handover the interim custody of minor child xxx to the petitioner on 03.05.2024;
- iii) The petitioner shall have custody of the said minor for a fortnight i.e., upto 17.05.2024;
- iv) In the *interregnum* if there is any other event that warrants or necessitates the returning of the said minor to Chennai, the same shall be addressed in an appropriate manner by the petitioner as a responsible parent;
- v) The welfare of the minor being paramount, the petitioner shall ensure that the minor child is comfortable in Bangalore;
- vi) This Court is informed that the petitioner is living



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with his mother and his sister is living with her family next door in Bangalore. This submission is recorded. The further submission that the petitioner's mother as well as petitioner's sister and her family will rally around and give adequate support for the welfare of the said minor in the fortnight of interim custody in Bangalore is also recorded.

vii)Petitioner shall bring the said minor (xxx) to Chennai and hand over said minor to respondents on 17.05.2024 by dusk i.e., by 06.00 pm.

Captioned CMP disposed of with the aforementioned consent order.

[M.S.J.,] [K.G.T.J.,]

30.04.2024

(¹/₂)

gpa

P.S. I: Upload forthwith

P.S.II : All concerned including the Registry of Madras High Court to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies



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uploaded in the official website of this Court are water marked, besides being QR Coded.

P.S.III: *We have masked the name of said minor and referred to him as 'xxx'. If any law enforcing authority or Court requires to know the same, it is open to law enforcing authority to approach the Registry of the Hon'ble Court which after obtaining leave of this Court or the Vacation Court Hon'ble Judges, disclose the name and other details of said minor.*



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