



OP.No.262 of 2023

O.P. No.262 of 2023

C.V.KARTHIKEYAN, J.

The petitioner, taking advantage of Sections 3, 7 to 10 of the Guardians and Wards Act, 1890 r/w Order XXI, Rule 2 & 3 of the Madras High Court Original Side Rules has filed this petition seeking appointment of the petitioner, the maternal grand father of the child Thrayi born on 28.06.2007 as joint guardian of the child along with the respondent, the father of the child.

2. The daughter of the petitioner and the respondent had married on 11.07.1999. They had moved to the United States of America. Two daughters were born to them. Sadhvi was born on 16.01.2003 and Thrayi was born on 28.06.2007. Subsequently, owing to irreconcilable differences, the marriage between the daughter of the petitioner and the respondent was dissolved by an order of the Eighteenth Judicial Circuit, Dupage County, Illinois dated 12.05.2011.



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3. The child, Thrayi has been living with the petitioner since she was 3½ years. Her sister is also in India.

4. The daughter of the petitioner unfortunately died on 20.03.2023.

5. In the petition, the petitioner had raised various grievance against the conduct of the respondent, but the same need not be now emphasized. The custody is sought jointly along with the respondent and therefore, it is only appropriate that Thrayi has positive views about her father.

6. The respondent had taken a conscious decision not to appear before this Court and had been set exparte by order dated 13.02.2024.

7. The petitioner was thereafter directed to tender evidence. The petitioner examined himself as P.W.1 and marked Exs.P1 to P.16. Ex.P.2 is the copy of Birth Certificate of Thrayi, Ex.P.3 is the copy of her



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passport. It must be mentioned that she was born in the United States of America and therefore she is the citizen of that country. Ex.P.4 is the copy of the Judgment of dissolution of marriage of the daughter of the petitioner with respondent dated 12.05.2011. Ex.P.6 is the Death Certificate of the daughter of the petitioner.

8. I had the opportunity of having a short interaction with the petitioner and with Thrayi. To the extent possible the implication of the order has been explained to the child.

9. Taking into consideration the evidence presented and also taking into consideration the welfare of the child and the wishes of the child, even though the petitioner is granted joint guardianship along with the respondent wherever any form is to be submitted to any statutory authority/school education institution, the signature of the petitioner alone would suffice, since the respondent is permanently residing in the United States of America and it would not be practically possible to get his signature. The petitioner is also permitted to be the sole signatory for



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transfer of funds of his daughter/mother of the child either to the child or her sister.

10. In view of the above, this original Petition stands allowed.

11. The respondent is at liberty to seek visitation rights but he should inform it in advance, the dates and time on which he would like to visit for interaction with the child. Necessary conditions can be stipulated, if any application in that regard is filed.

22.04.2024

Vv



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