



O.P.No. 281 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

O.P.No. 281 of 2023

And

A.No. 3081 of 2023

Mr.S.Gopi

... Petitioner

Vs.

1. Ms.Rajashivasankari

2. Mrs.Amudhavalli

... Respondents

PRAYER: Original Petition filed under Sections 3 to 7, 10 & 25 of Guardians and Wards Act, 1890 read with Order XXI Rules 2 and 3 of the Original Side Rules, to appoint the petitioner as guardian of the person of the minor G.Arshan Madhav son of S.Gopi and grant permanent custody of minor son G.Arshan Madha son of S.Gopi to the petitioner.

For Petitioner : M/s. John Arokiya Prabhu

For Respondents : Mr.A.Sakthivel



WEB COPY



O.P.No. 281 of 2023

ORDER

The petitioner/father, the first respondent/mother, the second respondent/mother-in-law of the petitioner are present. The child, who is aged just about 5 years, is also present.

2. The child is too young to understand the nature of the compromise which had been entered into between his parents. Though it is not mentioned in the joint memo of compromise, it is also informed that the parents have by mutual consent, dissolved the marriage between them. By this joint memo of compromise, the petitioner/father has consented that the first respondent/mother would be appointed as a guardian of the minor child G.Arshan Madhav with rights of permanent custody.

3. It had also been informed that the first respondent is to move to Canada for her employment and after the formalities are completed, she would be taking the child to Canada. Till that time, the child will be in the custody of the second respondent/his maternal grandmother.



O.P.No. 281 of 2023

WEB COPY

4. By the memo of compromise, the petitioner had retained rights to have access to the child and frequent interaction so long as the child is in this country. If the child goes to Canada, there is an obligation on the first respondent to bring him over to India for a month every year. It is fervently hoped that she would keep with that commitment. When the child is brought over to India, the petitioner would have full access to the minor child.

5. During the period of stay at Canada, the petitioner must be granted access to converse with the child through Whatsapp, videocall or through normal call or through any other social media platform. If the petitioner is to visit Canada or any other country, where the first respondent is residing, the first respondent shall permit the petitioner to have complete access to the child.

6. It is with much appreciation that I note that the petitioner, as a responsible person, has opened a savings account called Ponmagal scheme in the post office at Triplicane in account No. 010025875227. The minor can enjoy the proceeds on his attaining the age of 18 years. The petitioner has also opened a Demat account in the name of the minor and has assured that



O.P.No. 281 of 2023

he would continue to invest both under the Ponmagal scheme and the Demat account for the benefit of minor child and the amount could be utilised by the minor child as and when he requires or come draw the same in entitlement or as is required on him attaining the age of 18 years.

7. The petitioner may continue to support the first respondent financially towards the education and other expenses on the minor child and the first respondent may understand that even though the marriage is dissolved, decorum should be maintained between her and the petitioner and that she should encourage the minor child to have contact with the petitioner at all material times. After the child crosses the age of 10 years, his natural inclination would be only towards his father and the first respondent should encourage to forge a bond between the petitioner and the first respondent.

8. The petitioner and the first and second respondents have signed a joint memo of compromise. The learned counsel for the petitioner has also signed the joint memo of compromise. The respondents are appearing as parties-in person. The first respondent is present when this order was dictated and understood the nature and scope of the order and her obligations



O.P.No. 281 of 2023

in bringing up the child with responsibility and in also providing access to the petitioner to the child at all material times.

9. The petitioner may also join with the first respondent if require under the Rules and Regulations in signing any forms to enable the child to go over to Canada or any other country whenever such need arise. The joint memo of compromise dated 13.06.2024 shall form part of the order.

10. In view of the above reasons, the petition seeking to appoint the petitioner as guardian and to grant permanent custody to the petitioner of the minor child G.Arshan Madhav was born on 30.03.2019 is disposed of in terms of the compromise memo and conversely, the first respondent is appointed as the guardian of the minor child G.Arshan Madhav with right to have permanent custody of the child. Such right will be subject to the stipulations referred supra.

11. In view of the relationship among the parties, no order as to costs.



WEB COPY



O.P.No. 281 of 2023

C.V.KARTHIKEYAN, J.

vsg

12. In view of the order passed in O.P.No. 281 of 2023, A.No. 3081 of 2023 stands closed.

21.06.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

O.P.No. 281 of 2023

And

A.No. 3081 of 2023