



WEB COPY



O.P. No.671 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No.671 of 2022

R.Sindhu

... Petitioner

Vs.

Rumesh Kumar

... Respondents

PRAYER: Original Petition filed under Sections 3, 7 to 10 of the Guardians and Wards Act, 1890 read with Clause 17 of the Letters Patent and Order XXI Rule 2 & 3 of O.S. Rules, to appoint the petitioner as the sole guardian of the minor R.Susheel born on 25.07.2009.

For Petitioner : M/s.Radhika Boopathi

ORDER

The petition has been filed seeking to appoint the petitioner as the sole guardian of the minor R.Susheel, born on 25.07.2009 and to grant permanent custody.



O.P. No.671 of 2022

WEB COPY

2. The respondent had been served with the notice, but had taken a conscious decision not to appear before this Court. He had been set ex-parte on 26.06.2024.

3. In the petition filed, the petitioner had stated that the marriage between her and the respondent was solemnized on 18.05.2008 and the child was born on 25.07.2009. The respondent was working at Chettinad Vidhyashram School. It was stated that the petitioner came to find that the respondent was addicted to alcohol and it was an impossible task to make him to get away from that particular addiction. Efforts were made by admitting him to various de-addiction centres, but all efforts failed. Frustrated with the attitude of the respondent, the petitioner filed H.M.O.P.No.98 of 2021 before the Sub Court at Tambaram, seeking divorce on the ground of cruelty and desertion. The respondent did not appear before that particular Court and he was set ex-parte. By an order dated 02.09.2022, the marriage between the petitioner and the respondent was dissolved. The respondent had deserted the petitioner on and from 22.05.2015 and had not come back to the matrimonial house till date. It is



O.P. No.671 of 2022

under this circumstances, this petition has been filed seeking guardianship, since the petitioner has now got an employment at Singapore and is of the opinion that it would be to the advantage of the child, if he also goes over to Singapore with her for his future prospects.

4. Since the respondent remained ex-parte, the petitioner was directed to tender evidence, by filing a proof affidavit. The petitioner was marked the Birth Certificate of the minor child as Ex.P1 and the marriage invitation card was marked as Ex.P2. The copy of the petition filed in H.M.O.P.No.98 of 2021 was marked as Ex.P4 and certified copy of the order dated 02.09.2022 in H.M.O.P.No.98 of 2021 was marked as Ex.P5.

5. It is seen from the records that the child had been living with the petitioner continuously right from the date of his birth. There is also an allegation that when the child was just 3 years old and the respondent had taken him to a tasmac shop. The influence of the respondent will certainly have a negative impact on the mental condition of the child. He might be swayed to follow the foot steps of the father and that has to be prevented. It is in the interest of the child that the petitioner is appointed as a guardian, since the respondent has also disappeared on and from 22.05.2015.



O.P. No.671 of 2022

WEB COPY

6. Taking into consideration the nature of the evidence recorded and the documents produced and also the circumstances of the case and it would only be beneficial that the child is given a better future and the respondent had taken a conscious decision not to appear before the Court, this Original Petition stands allowed. The petitioner is appointed as guardian of the child, R.Susheel who was born on 25.07.2009 and permanent custody is also granted to the petitioner.

19.07.2024

Index :Yes/No
Internet:Yes/No
vkr



O.P. No.671 of 2022

APPENDIX

Petitioner's witness:

P.W.1 – Ms.R.Sindhu

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
P1	The computer generated birth certificate of minor R.Susheel
P2	The marriage invitation card
P3	The marriage photo along with CD
P4	The office copy of the petition filed in H.M.O.P.No.98 of 2021 on file of the Subordinate Judge, Tambaram (compared with the original)
P5	The certified copy of the order dated 02.09.2022 in H.M.O.P.No.98 of 2021 passed by the Subordinate Judge, Tambaram (compared with the original).
P6	The photocopy of the Aadhar card of the petitioner (compared with the original)
P7	The certificate under Section 65B of the Indian Evidence Act, 1872.

19.07.2024

vkrr



WEB COPY



O.P. No.671 of 2022

C.V.KARTHIKEYAN, J.

vkrr

O.P. No.671 of 2022

19.07.2024