



WEB COPY



O.P.No.67 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.07.2024**

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No. 67 of 2024

G.Siranjeevi

... Petitioner

Vs.

Diviya Madhavan

... Respondent

PRAYER: Original Petition filed under Sections 3, 7 to 10 and 25 of the Guardians and Wards Act under Order XXI Rules 2 & 3 of Original Side Rules to appoint the petitioner as guardian of the person of the minor and to grant the permanent custody of the minor child namely Master S.Nehan aged about 6 years, who is residing in No.1B, Ujjini Devi Street, Ayanavaram, Chennai 600 023 to the petitioner.

For Petitioner : Mr.Ganesh

For Respondent : Mr.M.Selvam

ORDER

The petition has been filed seeking to appoint the petitioner/father as the guardian of minor child, S.Nehan, who was born



O.P.No.67 of 2024

on 06.10.2016.

WEB COPY

2. The marriage between the petitioner and the respondent was solemnized on 07.03.2012. It was also registered on 20.09.2012 in the Sub-Registrar Office at Anna Nagar. Two children were born to them. The first child is S.Nehan who was born on 06.10.2016 and the second child is S.D.Dhruvann, who was born on 25.08.2021. Owing to irretrievable differences between the petitioner and the respondent, they had filed an application under Section 13(b) of the Hindu Marriage Act, seeking divorce. This petition in H.M.O.P.No.3386 of 2022 came up for consideration before the IV Additional Principal Judge, Family Court, Chennai and the petition was allowed on 20.02.2023. Thereafter, the petitioner and the respondent had been living separately. They had also remarried. They also have a family. The petitioner is employed at Muscat. They had taken a decision to appoint him as the guardian of the first child S.Nehan and the second child will be with the respondent. The petitioner had also made arrangements to take over the child to Muscat for his further studies.



O.P.No.67 of 2024

WEB COPY

3. The matter was actually listed in the Chamber on 29.07.2024.

The petitioner, the respondent and the child were present. Learned counsels were also present. I had an interaction with the petitioner, respondent and with the child. The child knew about this transfer from Chennai to Muscat and also that he would be studying in a School at Muscat. He preferred to be with the father. However, the respondent has sought rights to interact with the child through video conference every week. I am confident that the parties would keep up to that particular arrangement.

4. The parties had actually been referred to the Mediation and Conciliation Cell, wherein a compromise had also been effected in this regard between the petitioner and the respondent. The said memo of compromise is dated 26.06.2024. The memo of compromise shall form part of this decree. But however, to ensure that the child understands the situation in which he is put to, this Court had directed that he should be counselled by a child Psychiatrist.



O.P.No.67 of 2024

WEB COPY

5. Accordingly, the child has been examined by Dr.Vasuki Mathivanan, Counselling Psychologist on 30.07.2024 and she had given her report which is as follows:-

“This is to confirm that the child Nehan aged 8 years, met me along with his parents. I happened to talk to the child separately for 20 min on 30th around 3.15 pm. The child seems to be emotionally stable and shows maturity in his talking and very clear and glad about his relocation to Muscat along with his dad. Kindly note this doesn't assure that he will be the same in the future, considering his age.”

6. Taking into consideration the fact that the child, before me and also before the Counselling Psychologist had expressed intention to relocate to Muscat along with his father and was also aware of that particular fact, I would affirm the compromise already effected between the parties and allow the Original Petition.



O.P.No.67 of 2024

WEB COPY

7.

In the result,

(i) The petitioner is appointed as guardian of the minor child, S.Nehan born on 06.10.2016, till the child attains the age of 18 years.

(ii) The petitioner shall have permanent custody of the child till the child attains the age of 18 years.

(iii) The respondent can have interactions with the child in accordance with the agreement reduced as a compromise memo dated 26.06.2024 before the Mediation and Conciliation Cell.

(iv) The memo of compromise dated 26.06.2024 shall form part of the order/decreed.

(v) No order as to costs.

31.07.2024

Index :Yes/No
gsa



WEB COPY



O.P.No.67 of 2024

C.V.KARTHIKEYAN,J.

Gsa

O.P. No. 67 of 2024

31.07.2024