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O.P. No.100 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

O.P. No.100 of 2024

S. Vidya D/o. R. Sathianarayanan

... Petitioner

VS.

Jayaprakash Thothadri S/o. Mr. K. Thothadri (late)

... Respondent

PRAYER: Original Petition is filed under Section 3, 7 to 10 and 25 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of the Original Side Rules read with Clause 17 of the Letters Patent Act praying to (i) declare the petitioner as the Sole guardian of the person of the minor children J. Vidushi born on 24.01.2009 and J. Vidyut born on 21.08.2012, and (2) to grant permanent custody of the minor children J. Vidushi and J. Vidyut.

For Petitioner : Mr. J. Saravanavel

For Respondent : No appearance.

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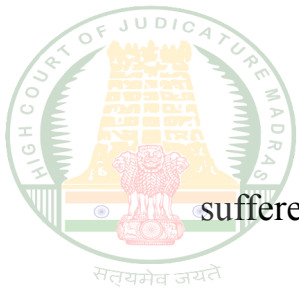
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ORDER

This petition has been filed under Sections 3, 7 to 10 and 25 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of the Original Side Rules read with Clause 17 of the Letters Patent Act praying to (i) declare the petitioner as the Sole guardian of the person of the minor children J. Vidushi born on 24.01.2009 and J. Vidyut born on 21.08.2012, and (2) to grant permanent custody of the minor children J. Vidushi and J. Vidyut.

2. According to the petitioner, marriage was solemnized between the petitioner and the respondent on 26.08.2007 at Srirangam, Trichy as per Hindu rites and customs and out of the wedlock, they have one daughter namely J. Vidushi and younger son namely J. Vidyut. There was matrimonial dispute between the parties. The respondent caused cruelty and neglected the petitioner and did not discharge his duties as husband and the petitioner

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suffered both physically and mentally and there were several issues between

the petitioner and the respondent. Therefore, the petitioner filed a divorce

petition and also filed an application seeking interim maintenance of

Rs.70,000/- per month for the minor children. The petitioner was granted

divorce vide order in H.M.O.P. No.335 of 2021 dated 21.04.2025 passed by

the Subordinate Judge, Alandur. The respondent has not paid any

maintenance to the children and the petitioner for the past several years

except Rs.55,000/- which he transferred in the year 2019. The petitioner,

being the mother of the minor children, is taking care of them and she is fit

and proper person to be a guardian of the minor children. Therefore, the

petitioner has filed this petition seeking permission to appoint herself as sole

guardian for the person and property of the minor children and to grant

permanent custody of the children so as to prevent the respondent from

interfering with the education, growth and development of the children.

3. The respondent husband has filed a detailed counter. The matter



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was posted for examination of witnesses. On the side of the petitioner, PW1

was examined and Ex.P.1 to Ex.P.19 were marked. At request, the case was posted for cross examination by the respondent. Sufficient opportunities were given, but the respondent did not appear and the respondent was not ready to cross examine PW1. Thereby, this Court posted the case for arguments and adjourned several times, but the respondent did not appear.

4. This Court also perused the evidence and the entire records.

5. As per the evidence of PW1 and the documents Ex.P.1. to Ex.P.19, they revealed that the petitioner and the respondent are the husband and wife and they are the parents of the minor children namely J. Vidushi and J. Vidyut. The marriage solemnized between the petitioner and respondent was dissolved and a decree for divorce was granted by the Subordinate Judge, Alandur vide order in H.M.O.P. No.335 of 2021. The respondent did not appear in the divorce proceedings. Hence an exparte order was passed in the



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said divorce petition. Even before the masters Court, despite sufficient opportunities, the respondent did not appear and cross examine PW1.

6. The minor children are now under the care and custody of the petitioner. The petitioner contended that the respondent neglected her and her children and did not discharge his duties. The petitioner has proved her case through sufficient evidences and documents. The evidence of the petitioner is not rebutted by the respondent. The petitioner being the mother, is the only care-taker of the minor children and she has no any adverse interest against the minor and therefore, she can be appointed as guardian of the minor children in their best interest. Therefore, the petitioner is entitled to be appointed as guardian of the person and property of the minor children J. Vidushi and J. Vidyut and to have permanent custody of the minor children.

7. In view of the above discussions, this **original petition is allowed on the following terms:**

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(i) The petitioner mother is appointed as a 'guardian' for the minor children J. Vidushi and J. Vidyut of their person and property till their attaining age of majority.

(ii) The petitioner is also granted permanent custody of the minor children J. Vidushi and J. Vidyut, till their attaining age of majority.

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Index : Yes/No
Speaking Order : Yes/No
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APPENDIX:

List of Petitioner side Witnesses:

PW1 : Mrs. S. Vidya

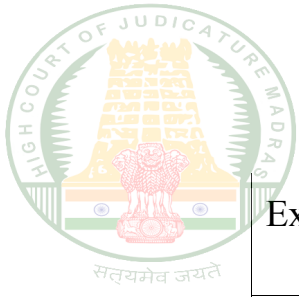
List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents
Ex.P.1.	26.08.2007	Photocopy of PW1's marriage invitation with



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		the respondent.
Ex.P.2	-	Photocopy of the birth certificate of PW1's minor daughter J. Vidushi.
Ex.P.3	-	Computer generated birth certificate of PW1's minor son J. Vidyut.
Ex.P.4.	21.10.2021 & 06.07.2022	Email communications sent by the respondent to PW1 and the School authorities.
Ex.P.5	14.07.2022	Email sent by the respondent to PW1 that he had sent a message to School authorities enquiring if the children were studying there.
Ex.P.6	24.08.2022	Email sent by the respondent to PW1.
Ex.P.7.	20.07.2023	Email sent by the respondent to PW1.
Ex.P.8.	19.08.2023	Email sent by the respondent to PW1.
Ex.P.9.	21.09.2023	Email sent by the respondent to PW1.
Ex.P.10.	11.11.2023	Email sent by the respondent to PW1.
Ex.P.11 series (6 nos.)	-	Photocopies of academic records of PW1's minor daughter J. Vidushi issued by FITJEE Global School for the academic year 2022-2023 and 2023-2024.
Ex.P.12 series (3 nos.)	-	Photocopies of academic records of PW1's minor son J. Vidyut issued by FITJEE Global School for the academic year 2022-2023.
Ex.P.13 series (2 nos.)	-	Photocopies of Student ID cards of PW1's minor daughter and minor son by FITJEE Global School.
Ex.P.14.	13.09.2023	Email sent by the respondent to PW1.



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Ex.P.15	-	Certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P.16	-	Photocopy of PW1's Aadhar Card.
Ex.P.17	18.09.2023	Email sent by the respondent to PW1.
Ex.P.18	21.10.2021, 21.06.2022 and 17.08.2022	Emails sent by the respondent to National Public School with CC to PW1 and reply email dated 24.08.2022 sent by the School authorities with CC to PW1.
Ex.P.19	13.09.2023	Email sent by the respondent to FITJEE Global School and CC to PW1.

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