



O.P.No.405 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
01.04.2025

PRONOUNCED ON
23.06.2025

CORAM

THE HONOURABLE MR JUSTICE K.KUMARESH BABU

O.P.No.405 of 2022

and A.Nos.3152 & 3153 of 2022 & 1126 of 2023

Kathyayini Reddy

... Petitioner

Vs

Pidintala Navneet Kumar Reddy

... Respondent

PRAYER: Original Petition filed for appointment of Guardian and Estate of mentally-ill person under Clause XVII of the Letters Patent of 1865 prayed

a) to appoint the petitioner as the guardian of the person of the minor child Evaan (born on 22.04.2015), now aged 7 years;

b) Grant permanent custody of the person of the minor child Evaan (born on 22.04.2015), now aged 7 years to the petitioner;

c) Pass such other further order.

For Petitioner : Mr.B.Poonkhulali

For Respondent : Mr.P.R.Raman

Senior Counsel

for Ms.Anupamm Raghuraman

for M/s.Raman & Associates

ORDER



O.P.No.405 of 2022

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This original petition is presented by the mother of the minor child, Evaan. By this petition, the petitioner seeks to appoint herself as the legal guardian of the minor son, Evaan, and to grant permanent custody of the minor child in her favour. An application in A.No.3152 of 2022 has been filed by the petitioner seeking communication rights with the minor child Evaan.

2. An application in A.No.3153 of 2022 has been filed by the petitioner seeking visitation rights over the minor child Evaan during weekends.

3. An application in A.No.1126 of 2023 has been filed by the respondent seeking permission to take the minor child Evaan to Dubai for his education.

4. The petitioner states that she and the respondent were married on 02.11.2011 and were blessed with their son Evaan on 22.02.2015. Differences arose between the petitioner and the respondent. On 05.11.2021, the respondent allegedly removed the minor child from his ordinary place of residence in Uthandi and took him to Bangalore without the consent of the



O.P.No.405 of 2022

WEB COPY

petitioner. Subsequently, the petitioner filed a complaint in CSR No.13 of 2022 against the respondent on 11.01.2022, as the respondent continued to deny her access to the minor child. In retaliation, the respondent issued a legal notice dated 12.02.2022 containing false allegations. The petitioner, through her counsel, requested a meeting with the minor child. The petitioner went to Bangalore on 05.05.2022 to meet Evaan but was treated with disrespect and cruelty by the respondent and his family. The petitioner and respondent have been separated since 04.11.2021. Given these circumstances, the petitioner contends that it is necessary to appoint her as the legal guardian of the minor child and to grant her permanent custody.

5. The case of the respondent is that the ward was never forcibly removed from the custody of the petitioner. Rather, the minor child was sent with him voluntarily by the petitioner herself, as has been the practice since 2020. The respondent asserts that the ordinary residence of the minor child, who was born and brought up in Abu Dhabi and Bengaluru, is not Chennai. He contends that there is no proof to show that the minor child permanently shifted to Bengaluru on 05.11.2021, and questions why the petitioner waited for 36 days to lodge a police complaint if there had been a wrongful removal. The respondent further argues that the petitioner's allegations are



limited to matrimonial disputes and do not establish any substantive reason warranting a change of custody. The respondent asserts that the petitioner has filed the present petition merely to extract money from him to facilitate her migration to Canada to pursue her career and to harass the respondent and his family.

6. Heard Ms.B.Poongkhulali, learned counsel for the petitioner and Mr.P.R.Raman, learned Senior Counsel assisted by Mr.Anupam Raghuraman, learned counsel for M/s. Raman and Associates.

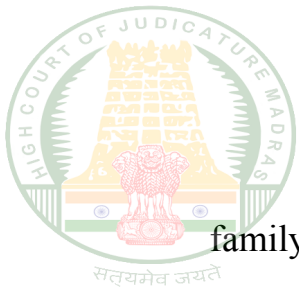
5) Ms.B.Poongkhulali, learned counsel for the petitioner submits that the petitioner and the respondent were married on 02.11.2011 at Secunderabad, and their son, Evaan, was born on 22.04.2015. After marriage, the couple began their marital life at the respondent's parental home in Kottivakkam. Subsequently, the respondent secured employment as a pilot, and the family relocated to Abu Dhabi. She submits that during the petitioner's pregnancy and thereafter, both in Abu Dhabi and in India, the respondent allegedly failed to provide emotional or physical support to the petitioner and the child. Instead, he is said to have indulged in lavish expenditures, including the purchase of an Audi A7 car, a Harley Davidson



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motorcycle, and a Siberian Husky puppy. Following Evaan's birth, the petitioner took up a job as a teacher in order to financially support herself and the child. She further submits that the petitioner was later diagnosed with Obsessive-Compulsive Disorder (OCD), and was sent back to India on 02.11.2018 for treatment, accompanied by the minor child. She further submits that in April 2019, the respondent allegedly developed an extramarital relationship. He lost his job in July 2020 and returned to India, following which he started a logistics business on 11.08.2021. The petitioner took the child with her to her parental home for the Diwali festival on 05.11.2021. It was thereafter that differences began to arise between the parties.

7. She submits that there was a mutual understanding between the petitioner and the respondent regarding the custody of the minor child, and the child was alternately placed in the care of both parents on various occasions. She further states that the petitioner lodged a police complaint on 11.01.2022 in C.S.R. No.13 of 2022 before the Kanathur Police Station at Uthandi, where she currently resides with her parents. Despite several efforts, when the petitioner visited Bangalore to meet the minor child after a prolonged struggle, she was allegedly mistreated by the respondent and his



family members. Furthermore, the child's maternal grandparents were also denied access to the minor.

8. She further contends that the minor child is being used as a pawn in divorce negotiations and to meet the respondent's demands. She also alleges that during video calls, the child is closely monitored and not allowed to speak freely with the petitioner. The learned counsel submits that it is essential to ensure the child receives a grounded upbringing in an environment that nurtures respect towards women. She respectfully submits that the petitioner is capable of providing a loving and stable home for the child, and that the child can also benefit from the care of his maternal grandparents, who were instrumental in raising him during his formative years. In support of her contentions, she relies on the judgments of the Hon'ble Apex Court in *Vivek Singh v. Romani Singh*, reported in 2017 (3) SCC 231, and *Col. Ramneesh Pal Singh v. Sugandha Aggarwal*, reported in 2024 SCC Online SC 847. According to her, these judgments emphasize the importance of addressing parental alienation syndrome and ensuring that both parents are given adequate opportunities to spend time with the child so the child may experience the love and care of both which is essential to decide the custody of minor child. Accordingly, she prays for the appointment of the petitioner as the legal guardian and for permanent

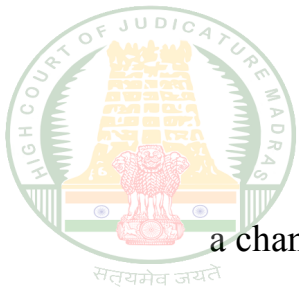


O.P.No.405 of 2022

custody of the minor child to be granted in her favour.

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9. Mr. P.R. Raman, learned Senior Counsel for the respondent, submits that the present petition is liable to be dismissed in limine, as the minor child was never removed from the custody of the petitioner. He further contends that the child's ordinary residence is not Chennai, as he was born and brought up in Abu Dhabi and subsequently relocated to Bengaluru. He further submitted that the petitioner has not produced a single document to establish either the child's residence in Chennai or that he was removed from her custody. On the contrary, in her own petition, the petitioner has admitted that the child has always resided in Bengaluru. The learned Senior Counsel further submits that the respondent, being the natural guardian of the seven-year-old child, has been diligently fulfilling his parental duties. There is no allegation, let alone any evidence, that raises doubt regarding his conduct or capacity as a father. He emphasizes that the minor child is articulate and has unequivocally expressed his clear preference to reside with the respondent, under whose care he is enjoying a safe and healthy environment—unlike the prior situation where the child was allegedly subjected to mental abuse. He finally submitted that the present petition, when read in its entirety, appears to be an outcome of ongoing matrimonial disputes between the parties and does not substantiate any claim warranting



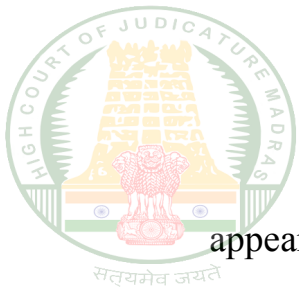
O.P.No.405 of 2022

a change in the current custody arrangement.

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10. The learned Senior Counsel further submits that the petitioner, while having categorically admitted to suffering from Obsessive-Compulsive Disorder (OCD), has deliberately omitted to disclose the current status of her mental health condition in the present petition seeking custody. He contends that it is incumbent upon the petitioner to establish her fitness—both mentally and emotionally—to have custody of the minor child. He further submitted that the petitioner is allegedly involved in an extramarital affair with her co-worker, one Mr. Aditya. Taking into account her mental health issues, the alleged extramarital relationship, and her abusive behaviour towards the child, it is the respondent's case that the petitioner has filed the present petition not with a genuine intention to seek custody, but merely as a pressure tactic to extract money from the respondent. The learned Senior Counsel also brings to the notice of this Hon'ble Court that the respondent has already initiated proceedings for dissolution of marriage in M.C. No. 28 of 2022. In light of the foregoing submissions, and in the best interest and welfare of the minor child, the respondent prays that the present petition be dismissed.

11. I have considered the submissions made by the learned counsels



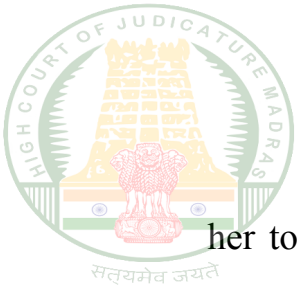
O.P.No.405 of 2022

appearing on either side and perused the materials available on record.

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11. The petitioner has examined herself as PW1 and had marked Exs.P1 to P20.The respondent had examined himself as RW1 and had marked Exs.R1 to R15.

12. The petitioner being the mother of the minor child had filed the present petition seeking to have the custody of the minor of his person and property. It is the case of the petitioner that after the return from Dubai, the minor child had been living at Chennai. It is not disputed that the petitioner and the respondent were living separately. The petitioner had further claimed that the minor child was removed from her custody and taken to Bangalore during December 2021. The same had been controverted to by the respondent by contending that after the return from Abu Dhabi, the minor had been residing with him at Bangalore and had been brought to Chennai to be with the mother on an understanding between them. Even in the proof affidavit she had indicated that from August 2021 both the petitioner and the respondent were leaving at Bangalore and she had come to Chennai to visit her parents during the Diwali for few days on 05.11.2021. On 17.11.2021, the child was taken by the respondent and thereafter, he had not permitted



O.P.No.405 of 2022

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her to even speak to the child. Finally, at the request of the petitioner, the respondent had brought the child to a restaurant at Uthandi. It is her claim that the child returned with her, but, however, on 07.12.2021, she had handed over the child to the respondent for him to spend some time with the child. She had received a message from the respondent on 19.12.2021 indicating that the minor child was with him at Bangalore, and accordingly to her there is no understanding that the child would be moved to Bangalore permanently. Hence, she had also filed a complaint with the Kannathur Police Station on 11.01.2022 apprehending the safety and well-being of the minor child. Thereafter, the parties had exchanged notices. The sequence of the events as narrated by the petitioner in the proof affidavit would indicate that the petitioner and the respondent had moved to Bangalore in the month of August 2021 and she had only come to Chennai for Diwali holidays. Thereafter, there is no averment that the petitioner had attempted to go back to Bangalore to the matrimonial home but, on the contrary she had indicated that the respondent had taken the child on 17.11.2021 only to bring back the child on 06.12.2021 and again take back the child on 07.12.2021. There is also no pleadings or even an evidence, that had been placed by the petitioner, as to what steps she had taken for repatriation of the child.



O.P.No.405 of 2022

13. It is to be noted that the petitioner herself in her whatsapp.

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Message sent by her would indicate that she was aware that the minor child is to be taken to Bangalore. She had no objection for the child to be with the respondent at Bangalore. The pleadings, depositions of the petitioner claiming that the child was with her at Chennai cannot be true, for the simple reason that even as per her proof affidavit, the petitioner and the respondent were living in Bangalore from August 2021 and she had come to Chennai in the month of November 2021 to celebrate Diwali. Further, the petitioner had also placed on record her employment details to substantiate her claim of her financial stability. The petitioner being the biological mother cannot be said to not provide the comforts of the child both physically and psychologically. Even though, the petitioner had claimed that the respondent was involved in an extramarital affair, she had not placed any material on record to substantiate such of her claim.

14. Be that as it may, the Court is now constrained to analyse on the basis of the materials available on record as to who would be the better parent for the custody of the minor child and consequentially the guardianship of the person and property of the minor. The respondent had produced under Ex.R7, a evaluation Report of the minor child with regard to



O.P.No.405 of 2022

his speech and occupational evaluation. He had also placed on record the Ex.R12, a printout of the Progress Report of the minor child, even though, the marking of Ex.R12 had been objected to subject to admissibility proof and relevancy, no arguments had been addressed to by the petitioner in that regard. The respondent has also provided the proof that he had been beneficially employed.

15. The child was directed to be produced before this Court on 28.03.2025 in my Chambers. After an interaction, this Court was of the opinion that there was a mild parental alienation and the child was little reluctant to go with the mother. I had counseled the child and had advised him to go with the mother, which was also accepted by him. The mother was also directed to bring back the child at 9.30 am on 01.04.2025. The child has been with the mother from 28.03.2025 till morning of 01.04.2025.

16. I had further interaction with the child on 01.04.2025 and the child still expressed his view of being with his father rather than mother. He had also expressed his reasons with clarity. I refrain from recording such reasons given by the child as it may hamper the relationship between the child and the mother. Since, this Court has found that both the petitioner and the



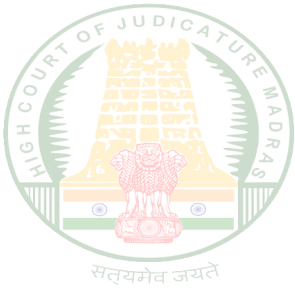
O.P.No.405 of 2022

respondent are equally capable of giving the essential needs and the comforts to the minor child, but, in choosing as to whom could be given the custody of the minor child, this Court also takes into considerable the view of the minor child who is ten years old, who has clear understanding of his ambition and has a better clarity of his vision.

17. In such view of the matter, this Court is of the considered view that the respondent can have the custody of the minor child and to be appointed as a guardian of the person and property of the minor child. The petitioner being the biological mother would be entitled for an effective visitation rights over the minor child.

18. In fine, the O.P. stands dismissed on the following terms;

- i)The respondent is appointed as the guardian of the person and property of the minor child Evaan (born on 22.04.2015), now aged 10 years;
- ii)The petitioner would be entitled to have the custody of the minor child during the summer vacation and the extended holidays.



O.P.No.405 of 2022

iii)The petitioner would have a right of visitation of the minor child during the major festivals and also on the birthday of the minor child.

iv)The respondent shall provided video conferencing platform to the petitioner enabling her to have video conferencing with the minor child on every Wednesdays and Saturday between 6.00 pm and 8.00 pm and shall also ensure that such video conferencing would be made effectively at least for a minimum of 30 minutes per day.

Consequently, connected miscellaneous applications are also closed.

23.06.2025

gba

Index :Yes/No

Speaking order: Yes/ No

Neutral Citations: Yes/ No



List of witnesses examined on the side of the petitioner:

PW1- Mrs.Kathyayini Reddy

List of documents marked on the side of the petitioner:

Exp1	The photocopy of the passport of the Minor Child Evaan. (Compared with the Original)
Exp2	The copy of the e-mail sent by the respondent to the petitioner with regard to the online schooling profile of the Minor Child. (Certificate under Sec 65 B Filed)
Exp3	The Whatsapp messages between the petitioner and the respondent. (Certificate under Sec. 65 B filed)
Exp4	The Photocopy of the CSR No.13/2022 dated 11/01/2022 issued by the Kanathur Police Station.(Compared with the original)
Exp5	The photocopy of the Legal notice dated 12.02.2022 sent by the respondent's counsel to the petitioner.(Compared with the original)
Exp6	The photocopy of the Reply notice dated 10.03.2022 sent by the petitioner's counsel to the respondent's counsel. (compared with the original)
Exp7	The photocopy of the Reply notice dated 07.04.2022 sent by the petitioner's counsel to the respondent's counsel with postal receipt. (Compared with the original)
Exp8	Series (5 Nos) are the e-mail correspondence between the petitioner's counsel and the respondent's counsel (Certificate under Sec.65B filed)
Exp9	The Whatsapp messages between the petitioner and the respondent regarding access to the child and visitation.(Certificate under Sec.65B filed)
Exp10	The Whatsapp messages between the respondent and other women (Certificate under Sec.65B filed)
Exp11	Series (4 Nos) are the photographs of the petitioner and Minor Child along with the pen drive containing the said photos. (Certificate under Sec.65B filed)
Exp12	The photocopy of PW1 Aadhaar card



O.P.No.405 of 2022

Exp13	The pen drive containing the phone calls between the petitioner and the Minor Child.(Certificate under Sec.65B filed)
Exp14	The Declaration of Willingness to accept the office of the person of the Minor Evaan
Exp15	Series (2 Nos) are the e-mails between the petitioner and the respondent. (Certificate under Sec.65B filed)
Exp16	The e-mail sent by the Dr.Vijay Nagaswami. (Certificate under Sec.65B filed)
Exp17	The downloaded copy of the fee structure of Dove Green Private School. (Certificate under Sec.65B filed)
Exp18	Series (2 Nos) are the Employment contracts of the petitioner with Brightchamps Tech Pvt Ltd and Winspark Innovations. (Certificate under Sec.65B filed)
Exp19	The downloaded copy of the work experience of the petitioner from Whitehat Jr. (Certificate under Sec.65B filed)
Exp20	The photocopy of the report card of the Minor Child issued by the Learning Space Nursery (Compared with the Original)

List of witnesses examined on the side of the Respondent:

RW1- Mr.Pidintala Navneet Kumar Reddy

List of documents marked on the side of the Respondent:

ExR1	The photographs of the petitioner with her colleague along with the CD
ExR2	The printout of the travel Itinerary and hotel booking of luxury vacations of the petitioner and the respondent.
ExR3	The printout of the Instagram chats of the petitioner
ExR4	The printout of the e-mail correspondence between the respondent and the counsellor about the marriage and the child.
ExR5	The printout of the e-mail correspondence sent by the respondent to the petitioner's psychiatrist about the marriage and the child



O.P.No.405 of 2022

ExR6	The photograph of the minor child with the pet dog at Abu Dhabi residence.
ExR7	The printout of the speech/occupational report of the minor child.
ExR8	The printout of the bill of iPhone purchased by the respondent.
ExR9	The printout of the WhatsApp correspondence between the petitioner and the respondent.
ExR10	The office copy of the police complaint filed by me.
ExR11	The e-mail complaint raised by me with the tinder support regarding impersonation.
ExR12	The printout of the progress report of the minor child.
ExR13	The photocopy of the Aadhaar Card of the minor child (Compared with the original)
ExR14	The pendrive containing an audio file, the conversation between the respondent and the doctor.
ExR15	(Series 2 Nos.) are the certificate under 65 B of evidence act in respect of the all the electronic evidence.
ExR16	The cyber crime complaint dated 11.05.2022 along with the E-mail acknowledgment dated 12.05.2022 along with certificate under Sec.65B of Evidence Act

23.06.2025

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O.P.No.405 of 2022

K.KUMARESH BABU,J.

gba

O.P.No.405 of 2022

23.06.2025