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O.P.No.806 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.806 of 2023

Premnath

... Petitioner

VS.

Kanakala Sai Prasunna

... Respondent

PRAYER: Original Petition filed under Sections 3, 7 to 25, 26 of the Guardian & Wards Act, 1890 read with Order XXI and Rule 2 & 3 of the Original Side Rules for praying the petitioner (i) to appoint the petitioner as guardian of the person of the mother girl child namely katyayani (ii) to grant permanent custody of the minor child in favour of the petitioner herein and (iii) and permit the petitioner to take the minor child outside the jurisdiction of this Court to provides Education and pass such further orders.

For Petitioner : Mr.C.Loganathan

For Respondent : Set Exparte



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ORDER

This petition is presented by the father of Minor Katyayani. By this petition, the petitioner seek to appoint him as the legal guardian of Minor girl Katyayani and to grant permanent custody of the minor child.

2. The petitioner states that the petitioner and the respondent tied knot on 26.08.2009 and begotten female minor child Katyayani on 27.10.2010. The marriage of the petitioner and the respondent was dissolved on 26.05.2013 in F.C.O.P.No.4193 of 2012 on the file of Family Court at Chennai. Further, in the said order the court directed the respondent to allow the petitioner to move and talk with their daughter through SKYPE once in two days. The petitioner and the respondent entered into the memorandum of understanding for custody of the minor girl child on 28.05.2023. The respondent inspite of service of notice on her, kept herself away from this proceedings.

3. The petitioner has examined himself as PW1. He has produced the photocopy of the Birth Certificate of minor Katyayani as Ex.P2. On perusal of Ex.P2, it shows that the petitioner and the respondent are the parents of

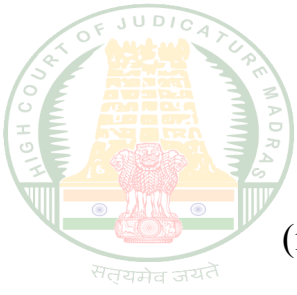


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the minor child and the minor child Katyayani born on 27.10.2010. The photocopy of the order in F.C.O.P.No.4193 of 2012 as Ex.P3, shows that the marriage between the petitioner and the respondent was dissolved on 26.05.2013 through mutual consent. The photocopy of the memorandum of understanding dated 22.05.2023 entered between the petitioner and the respondent as Ex.P4. On perusal of Ex.P4, explicit that the respondent agreed to give custody of the minor child to the petitioner for the benefit of the child.

4. This Hon'ble Court vide order dated 22.04.2024, directed both the parties to file affidavits to tender evidence. Both the parties filed their affidavits on 01.08.2024 in Sr.Nos.28482 and 28478. The respondent stated in the affidavit that she had no objection to appoint the petitioner as legal guardian and to get the custody of the minor child and thereafter, failed to represent before this court. Further, the assertions in the petition have been duly proved by adducing deposition and supported by evidence. In these circumstances, the petitioner is entitled to the relief.

5. Accordingly, the original petition is allowed on the following terms;



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(i) the petitioner is appointed as the legal guardian of the person
WEB COPY of the minor girl child, Katyayani.

(ii) the petitioner is granted with permanent custody of the minor
child Katyayani in the interest of the child.

(iii) the petitioner is permitted to take the minor child outside the
jurisdiction of this Hon'ble Court to provide education.

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Index :Yes/No
Speaking order: Yes/ No
Neutral Citations: Yes/ No



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Petitioner's witness:

P.W.1 —Mr.Premnath

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Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of PW-1's Aadhaar Card (Compared with original)
Ex.P2	Photocopy of the birth certificate of minor Katyayani (Compared with original)
Ex.P3	Photocopy of the order dated 26.05.2013 in F.C.O.P.No.4193 of 2012 passed by Principal Family Court, Chennai (Compared with the original)
Ex.P4	Photocopy of the Memorandum of Understanding dated 22.05.2023 entered into between PW-1, as a 1 st Party and the respondent as a 2 nd Party (Compared with the original)
Ex.P5	Computer generated Cambrian Elementary School Application form for enrolling the minor Katyayani along with certificate under Section 65B of the Indian Evidence Act, 1872.
Ex.P6	Declaration of PW-1's willingness to act as a guardian

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