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O.P.No.733 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.03.2025**

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THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

**O.P.No.733 of 2024**

R.Karthik

...Petitioner

VS.

A.Sowndarya

...Respondent

**PRAYER:** Original Petition filed under Sections 7 (1) & 10 (1) of the Guardian and Wards Act, 1890 and under Order XXI Rules 2, 3 & 4 of O.S.Rules, praying that this Hon'ble Court may be pleased

a. To appoint and declare the petitioner as the sole and exclusive legal guardian of the person of the minor son Devjith Karthik bor on 07.02.2017, now aged 7 years;

b. to grant permanent custody of the minor son Devjith Karthik born on 07.02.2017, now aged 7 years;

c. And pass such or other orders as this Hon'ble Court deems fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.R.Vasudevan

For Respondent : No appearance – Set exparte

**ORDER**

This petition is presented by the father and the natural guardian of the minor Devjith Karthik, who was born on 07.02.2017. By this petition, the petitioner seeks to grant him the permanent custody and appoint him as the sole and exculsive legal guardian of the said minor.Devjith Karthik.

2. The petitioner states that he was married to the respondent A.Sowndarya on 28.02.2016. The couple had begotten a son Devjith Karthik on 07.02.2017. Soon the birth of their son the couple moved to London which was then the working place of the petitioner. The petitioner claims that his married life was always rocky due to respondent's unreasonable coercive and controlling behaviour. The petitioner claims that the respondent willfully refused to return to the matrimonial home. The petitioner was denied the rightful and natural company of his son illegally for 3 years since 02.05.2021. The petitioner had to move back to India for his job while the respondent remained in UK with the said minor child. The petitioners submits that on January 2024 he received a phone call from his brother-in-law, who informed that the Social Services Board in Hounslow, U.K. had taken custody of his minor son Devjith Karthik. The Family Court at West London took cognizance of the matter and the above said minor Devjith Karthik was to be placed in the foster care there. Further the Family Court at

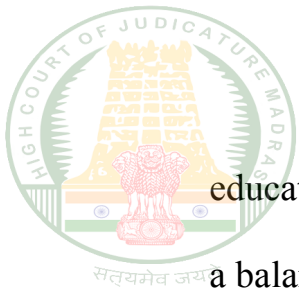


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West London (Case No. ZW24C50015) passed a final order granting the custody of the minor Devjith Karthik to the petitioner on 19.08.2024. The said minor presently resides with the petitioner. The petitioner further claims that all the necessary needs for the welfare of the said minor Devjith Karthik has been duly taken care by the petitioner. He further submits that the respondent cannot provide the adequate care nor fulfill his needs which are essential for the welfare of the minor, she cannot give him a normal upbringing in a peaceful environment owing to her impulsive and controlling nature.

3. In the final order of Case No. ZW24C50015 the Family Court at West London which made the following observations, which is marked as Ex.P7.

- a. The said minor was suffering and was likely to suffer physical harm in the care of the respondent. He was assessed of having a low BMI and the referrals raised concerns that the respondent was not feeding the minor.
- b. The minor was likely to suffer emotional harm in the care of the respondent, owing to the concerns raised over her mental health.
- c. The minor was likely to suffer neglect in the hands of the respondent. It further made significant observations that the minor's



educational needs were not met by the respondent, the minor was deprived of a balanced nutritious diet, the social and development needs of the minor was not taken care as he was confined to their house .

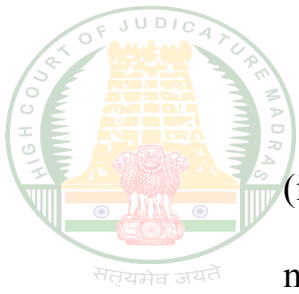
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4. The petitioner has examined himself and submitted a list of documents as evidence marked as Ex.P1 to Ex.P7. The marriage certificate dated 29.02.2016 as Ex.P1. The birth certificate of the said minor Devjith Karthik as Ex.P2. The Final order which was passed by West London Family Court on 19.08.2024 which granted the custody of the Minor.Devjith Karthik to the petitioner is marked as Ex.P7.

5. The assertions in the petition have been duly proved by adducing oral and documentary evidence. In these circumstances, the petitioner is entitled to the relief.

6. In light of the above mentioned facts the original petition is allowed and the following are granted in favour of the Petitioner ;

- (i) the petitioner is appointed and declared as the sole and exclusive legal guardian of the Minor.Devjith Karthik born on 07.02.2017



(ii) the petitioner is granted the permanent custody of the said minor Devjith Karthik.

WEB COPY

11.03.2025

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Index :Yes/No

**Petitioner's witness:**

P.W.1 – Mr.R.Karthik

**Documents exhibited by the petitioners:**

| Exhibits | Documents                                                                     |
|----------|-------------------------------------------------------------------------------|
| Ex.P1    | Photocopy of the Marriage Certificate dated 29.02.2016.                       |
| Ex.P2    | Photocopy of the birth certificate of Devjith Karthik dated 24.04.2017.       |
| Ex.P3    | Photocopy of Passport issued to Devjith Karthik dated 24.07.2017.             |
| Ex.P4    | Photocopy of School fee receipt issued by APL Global School dated 13.09.2024. |
| Ex.P5    | Photocopy of School ID Card issued to Devjith Karthik.                        |
| Ex.P6    | Photocopy of Aadhaar Card of the petitioner.                                  |
| Ex.P7    | Photocopy of the Final order made by West London Family dated 19.08.2024.     |

11.03.2025

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**K.KUMARESH BABU, J.**



WEB COPY

O.P.No.733 of



kak

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