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O.P.No.773 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**O.P.No.773 of 2024**

1.Mrs.S.Manjula  
2.Mr.David Antony

... Petitioners

Vs.

K.Senthilkumar

... Respondent

**PRAYER:** Original Petition filed under Sections 3, 7, 8, 9, 10 & 25 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of the Madras High Court Original Side Rules praying for the following relief:-

- i) Appointing the petitioners as the “Legal Guardians” of the person of the minor Child, “Deepesh. S” and
- ii) Grant “Permanent Custody” of the minor child “Deepesh.S” to the petitioners herein and pass orders

For Petitioners : Mr.Prakash Goklaney

For Respondent : No Appearance

**ORDER**

This petition is presented by the biological mother and step father of



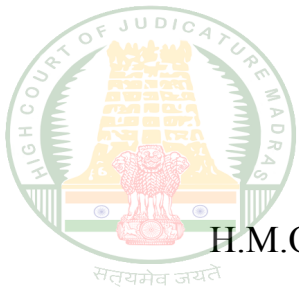
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Minor Mr.Deepesh.S. By this petition, the petitioners seek to appoint them as the legal guardian of Minor son Mr.Deepesh.S and to grant permanent custody of the minor child.

2. The petitioners state that the first petitioner, mother of the minor, married the respondent on 25.11.2008 and begotten the minor on 05.03.2010. The marriage between the first petitioner and the respondent was dissolved in O.P.No.1836 of 2020 on 14/09/2021 by exparte order. Likewise, the second petitioner marriage was dissolved by the Hon'ble Family Court, Thrissur, Kerala in O.P.No.1433 of 2023 on 16.12.2023 by mutual consent. The respondent never took care of the minor and his wife. Further, the first petitioner is alone taking care of the minor. Hence, for her future and her son's future she legally married the second petitioner. Therefore, it is necessary to appoint the petitioners as legal guardian of the minor and to grant permanent custody of the minor to the petitioners. The respondent inspite of service of notice on him, kept himself away from this proceedings and set exparte on 03.03.2025.

3. The first petitioner has been examined as PW1. She has produced the photocopy of the order and decreetal order dated 14.09.2021 in



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H.M.O.P.No.1836 of 2020 as Ex.P1. The Photocopy of the Judgement passed in O.P.No.1433 of 2023 as Ex.P2. On perusal of Ex.P1 and Ex.P2, it clearly shows that the petitioners' independent marriages were dissolved. The photocopy of the marriage certificate dated 18.09.2024 as Ex.P3. On perusal of Ex.P3, it shows that the petitioners got married to each other. The computer generated a copy of the birth certificate of a minor as Ex.P5.

4. The assertions in the petition have been duly proved by adducing deposition and supported by evidence. In these circumstances, the petitioners are entitled to the relief.

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

- (i) the petitioners are appointed as the legal guardian of the person of the minor child, Deepesh S.
- (ii) the petitioners granted with permanent custody of the minor child Deepesh S. in the interest of the child.

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Index :Yes/No

Speaking order: Yes/ No

Neutral Citations: Yes/ No

**Petitioner's witness:**

P.W.1 - Mrs.S.Manjula

**Documents exhibited by the petitioners:**

| <i><b>Exhibits</b></i> | <i><b>Documents</b></i>                                                                     |
|------------------------|---------------------------------------------------------------------------------------------|
| Ex.P1                  | Photocopy of the Order and decreetal order dated 14.09.2021 passed in HMOP.No.1836 of 2020. |
| Ex.P2                  | Photocopy of the Judgment passed in O.P.No.1433 of 2023                                     |
| Ex.P3                  | Photocopy of the marriage certificate dated 18.09.2024.                                     |
| Ex.P4                  | Original photos taken at the said marriage                                                  |
| Ex.P5                  | Certificate under Section 65B of Indian Evidence Act is filed for Ex.P5                     |

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