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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-02-2026

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THE HON'BLE MR.JUSTICE P. DHANABAL

OP No.336 of 2024

Dr.C.Kundhavai

...Petitioner

Vs

T.Adhikayan

...Respondent

PRAYER: This Original Petition is filed under Section 7 of the Guardians and Wards Act, 1890 r/w Order XXI Rules 2 & 3 of the High Court O.S.Rules, 1956, to appoint the petitioner to be the Guardian of the person of the minor girl, namely Akshara Adhikayan.

For Petitioner:

Mr.A.Nagarajan

For Respondent:

Mr.K.Kannan
for APN Law Associates

ORDER

This Petition has been filed by the petitioner to appoint the petitioner to be the guardian of the person of the minor girl namely, Akshara Adikayan.

2. The case of the petitioner is that marriage between the petitioner and the respondent was solemnised on 30.11.2015 as per the Hindu Rites. After the marriage, the petitioner and the respondent lived at Kumbakonam for about 56 days before leaving to USA. Thereafter, they had shifted to USA. Ever since



landing in USA, she was a target of attack for all the failures and setbacks of the respondent in his life and she was taunted and humiliated for no reason.

Thereafter, the petitioner gave birth to a female child namely Akshara Adhikayan on 16.10.2016. Upon birth of the child, the respondent had instructed that herself with the new born baby accompanied by her mother-in-law to visit India. Accordingly, she left from USA and reached Chennai on 09.01.2017. Thereafter, the respondent issued a notice dated 12.01.2019 calling upon the petitioner to live with the respondent without making any arrangements for the return travel documents and the VISA papers and the same was suitably replied by the respondent through reply letter dated 31.01.2019. Thereafter, the petitioner lodged a complaint and Kumbakonam West police also registered a case in Cr.No.712 of 2019. Thereafter, the respondent filed a petition in OP.No.74 of 2014 on the file of the Principal Sub-Judge, Kumbakonam, for restitution of conjugal rights to escape from the aforesaid criminal complaint. Thereafter, the abovesaid petition was transferred to the V Additional Family Court, Chennai. Now, the respondent is residing in USA. The respondent has no regard to love or affection towards the minor daughter and he has lost all his moral and legal right to be a guardian to his daughter Akshara Adhikayan.

3. For all practical purposes, the contribution of a guardian is immensely required and legal required on a day-to-day basis and particularly for



compliance of all the statutory and legal requirements under law for US minor citizen to continue her stay as well as the study in primary school in Chennai.

Apart from the moral and legal duties. Therefore, the petitioner filed this petition for appointment of a guardian.

4. The respondents filed counter denying the averments made in the petition.

The petitioner did not discharge any duty as a daughter-in-law or as a wife to the respondent to the satisfaction of his family. Instead, she was adamant and showed a lack of respect towards the respondent's family members during her stay at Kumbakonam. The respondent and his family members were threatened and harassed and humiliated by the petitioner and her family. The respondent did not abandon his responsibility as a husband or father and both he and his family members made efforts to stay involved. The family of the respondent had tried to visit Tiruvarur regularly to see both the petitioner and the minor child, but they were humiliated and threatened away by the petitioner and their parents. The respondent had filed a petition for restitution of conjugal rights as against the petitioner in OP.No.74 of 2014 but the petitioner never submits her consent to rejoin with the respondent. Thereafter, the petition was withdrawn and US court granted decree dissolving the marriage. The respondent completed all the required steps and fulfilled his parental obligation within his reach demonstrating a commitment to the need of child. Even in the



divorce petition, the respondent sought joint custody of his daughter considering her welfare.

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4.1. The US citizen child Akshara Adhikayan was brought to India under false pretences. The denial of guardianship and the opportunity for the respondent to have relationship with his daughter is unjust and unfair. The respondent also complied with the US court order for child support payment of Rs.80,000/- INR p.m., from the date of court order. As the child is an American citizen and she is aged 8 years, the statutory bar regarding guardian ship to be vested in mother has no force. The respondent wishes to educate and to bring up his daughter in USA as she happens to be the citizen by birth in US and he has means to give her the best of education, comfort and good things of life and therefore, the petition is liable to be dismissed.

5. This court heard both sides and perused the records.

6. On the side of the petitioner, the petitioner was examined as PW1 and marked as Ex.P1 to Ex.P20. On the side of the respondent, no witness was examined and no document has been marked. Further the evidence of PW1 has not been cross examined by the respondent.

7. In this case, it is an admitted fact that the minor children is under the care and custody of the petitioner/mother and the marriage between the



petitioner and the respondent was dissolved. Even after dissolving the marriage, the minor child is with the care and custody of the petitioner and the respondent also living in Abroad and petitioner is living in Chennai.

8. According to the evidences of PW1 and Ex.P1 to Ex.P20, the petitioner has to be appointed as guardian for the minor child Akshara Adhikayan. The respondent have failed to adduce contra evidence to rebut the evidence of the PW1 and the respondent has not even cross examined the evidence of PW1. Therefore, the evidence of PW1 is reliable and acceptable. Since the minor child is under the care and custody of the petitioner, she has to be appointed as a guardian for the person of minor child. Since the respondent being the father of the minor child is residing in USA, whenever he comes to India, he can visit the child after prior intimation to the petitioner. On such prior intimation, the petitioner has to make arrangements to produce the child at any public place convenient to both the parties.

9. With the above said terms, this petition is allowed and the petitioner/mother/Dr.C.Kundhavai, is appointed as a guardian for the minor child for her person till she attaining the age of majority or till she is residing in India.

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P.DHANABAL, J.

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APPENDIX

List of documents filed by the Petitioner:

Sl.No.	Date	Description	Nature
1.	30.11.2015	Marriage Invitation	Original
2.	16.10.2016	Birth Certificate of Minor Child Akshara Adhikayan	Original
3.	11.03.2019	FIR	Xerox
4.	16.02.2023	Decree of Child support passed by the Superior Court, State of Connecticut	Xerox
5.	18.06.2019	Minors Passport	Xerox
6.	16.09.2019	Final Report in C.C.No.619/2023	Xerox
7.		Salary Slip of the petitioner	Xerox
8.		Petitioner's ID Proof	Xerox

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