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OP No. 410 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 24-11-2025
Pronounced on: 07.01.2026

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

OP No. 410 of 2023

1. Leema Jacob
D/o.Jacob George, Residing
permanently at No.14, Old No.11 and
12, T.A.S-Enclave, A.K-Block, 10th
Main Raod, Shanthi Colony, Anna
Nagar, Chennai - 600 040.

Petitioner(s)

Vs

1. Pravin Kuruvilla Alex
S/o.Alex P.Kuruvilla, Residing at 25,
Navarathna Gardens, Ekkattuthangal,
Guindy, Chennai - 600 032. Also at
Parekadavil House, Eraviperoor P.O.,
Thiruvilla, Pathanamthitta, Kerala.

Respondent(s)

PRAYER: This Original Petition has been filed under Section 3, 7, 8, 9, 10 and 25 of the Guardians and Wards Act read with Clause 17 of the Madras High Court Letters Patent read with Order XXI Rule 2 and 3 of the Madras High Court Original Side Rules praying to appoint the petitioner as the legal guardian of the person of the minor child and to grant permanent custody of her minor son Nathen Alex to the petitioner and to pass any such other orders in the



interest of the welfare of the child.

For Petitioner(s): M/s.Ambili Menon .P

For Respondent(s): M/s.J.P.Rajesh (614/2001)

ORDER

This Original petition has been filed by the petitioner to appoint her as the legal guardian of the person of the minor child namely Nathen Alex and to grant permanent custody of the child to the petitioner.

2. The *case of the petitioner* is that the petitioner and the respondent are the wife and husband and their marriage was solemnized in the year 2007 as per the Christian rites. After their marriage, they lived at Ekkattuthangal, Guindy, Chennai and due to wedlock, a male child namely Nathen Alex was born to them on 10.09.2009. Thereafter, the respondent moved to Doha, Qatar in the year 2010-2011. From the year 2012 to 2014, both the petitioner and the respondent lived in a small apartment in Doha. Thereafter, the petitioner got a job in Oil and Gas company and thereafter, slowly the respondent's sister entered into the petitioner's family, which resulted in serious matrimonial dispute among the petitioner and the respondent. The respondent lived in Doha at a resident visa and the petitioner lived on a dependent visa in the month of February 2020. The respondent refused to renew the petitioner's visa and she lost her job and she was under house arrest in Doha. The respondent would take



the child away for the whole day and would not tell where he is going and she could not communicate to her parents and she was illegally resided in Doha for almost 6 months and thereafter, with the help of her brother, she filed a petition for divorce and obtained divorce from a Family Court, Qatar on 23.09.2022.

2.1. On 06.06.2022, the respondent father filed a petition for custody of the child in the Family Court, Doha, Qatar and the Qatar Court gave him the custody of the child and again the petitioner approached the Family Court, Qatar for getting back the custody of the child and the Family Court, Qatar allowed her for 10 days exclusive custody on every two months. She had got into a state of deep distress by the end of 2022 due to the fact that the child was taken away from her and she could not interact with him. Now the petitioner came to know that the respondent winded up his business in Doha and he came back to India permanently with her minor son. However, he does not allow her to see and spend time with her son. The child along with his parents lastly resided in Chennai. The respondent has no job and he is depending on his father and now he is residing in Kerala. The petitioner is now living in Chennai and she is currently well employed in Greenfield Chennai International School as the Director and she is in sound financial state to take care of her son and can provide for him. The child is not being personally taken care by the respondent, who has heavily indebted in Doha, Qatar and living absconding life. Therefore,



the custody of the minor child has to be given to the petitioner and she has to be appointed as guardian for the minor child.

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3. The *case of the respondent* is that he denies all the allegations contained in the petition except those that are specifically admitted through the counter. This petition is liable to be dismissed on the ground that the petition is misconceived and bad in law. The petitioner has not come to the Court with clean hands. The marriage between the parties and a son born to them, are admitted. The respondent came along with his son to India from Doha, Qatar and settled in his native place at Kerala and now the child is studying in IX Standard at Choice Shool, Thiruvalla and the respondent has no intention to remove his son from the jurisdiction of the Court. The allegation that the petitioner's father was supporting them is false and he did not get any money from the petitioner's father. The petitioner has got a job at a company in Doha and thereafter, she was removed from the job due to some allegations. The petitioner had an affair with one Robin and the above said affair was also admitted by her in the presence of the Pastor. The respondent agreed for a mutual divorce due to the petitioner's torture.

3.1. The respondent was concerned about his son. The respondent did not restrict the child to be with him. The child was always given freedom of



choice. However he did not choose his mother, but he chose his father in the open Court in Qatar due to the physical harassment and mental tortures he faced from his mother. The Court of Doha after examining the child, ordered custody with the respondent and thereafter, the Court allowed 10 days custody with the petitioner. The child was never forced to come to Kerala. He came with the respondent with his own consent. Now he is aged about 13 years and the respondent is an employer and he is running a business and settled at his native place along with his father. The respondent is capable of educating the child with a good character and obedience. Now the child is studying at Choice School at Thiruvalla, which is a reputed School. The respondent is also engaged in real estate business and he is financially sound enough to take care of the child. Therefore, the petition is liable to be dismissed.

4. The learned counsel appearing for the petitioner would submit that marriage between the petitioner and the respondent was solemnized in the year 2007 and due to the wedlock, a male child namely Nathen Alex born on 10.09.2009. After their marriage, they lived at Doha, Qatar and due to misunderstanding between them, the marriage between them was dissolved through a decree of divorce granted by the competent Court at Qatar and the minor child was also given under the custody of the respondent. Thereafter, the petitioner permanently settled in Chennai and now she is working in a reputed



School and she is capable of taking care of her minor child. Whereas the respondent has quit his business at Qatar and settled in his native place and doing business along with his father. He is not in a position to maintain the child. Therefore, the petitioner has filed this petition to appoint the petitioner as guardian and to grant custody of the minor child to the petitioner. In order to prove the case of the petitioner, she was examined as PW1 and marked Ex.P.1 to Ex.P.12. The evidence of PW1 and documents Ex.P.1 to Ex.P.12 clearly proved the case of the petitioner and the petitioner is entitled to be appointed as guardian for the minor child and she is also entitled to the custody of the minor child. Therefore, she prays to allow this petition.

5. The learned counsel appearing for the respondent would submit that the petitioner has filed this petition only to harass the respondent and the minor child is under the care and custody of the respondent father and he is very comfortable with his father and the marriage between the petitioner and the respondent was dissolved through a decree of divorce by the Court of Qatar, where the Court, after conducting enquiry with the child, decided to grant custody of the minor child to the respondent and the interim custody was ordered to the petitioner mother. Thereafter, the petitioner came to India and now settled at Chennai. After some time, the respondent also came to India and settled in his native place at Kerala. Now the minor child is studying in a



reputed School. The respondent is doing real estate business and he is earning sufficient income and he is able to maintain minor child and now the minor child is under the care and custody of the respondent. The petitioner is not in a position to take care of the minor child. Therefore, the custody of the minor child need not be disturbed in the interest of the minor child. In order to prove the case of the respondent, he was examined as RW1 and marked Ex.R.1 to Ex.R.7. The evidence RW1 and the documents Ex.R.1 to Ex.R.7 clearly established the case of the respondent and thereby, the custody of the minor child need not be disturbed in the interest of the minor child and therefore, this petition is liable to be dismissed.

6. Heard both sides and perused the entire materials available on record.

7. It is an admitted fact that marriage between the petitioner and the respondent was dissolved through an order passed by the Court of Qatar and the petitioner and the respondent have a male child namely Nathen Alex and now he is under the custody of the respondent father. The Court of Qatar, while granting divorce to the respondent and the petitioner, ordered custody of child to the respondent father and an interim custody was also given to the petitioner mother. Now both the parties are residing in India. The petitioner is settled at Chennai and the respondent is settled at Kerala and the child is studying in Cochin. At this stage, the petitioner mother filed this petition to appoint her as



guardian of the minor child and to grant custody of the minor child to the petitioner.

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8. According to the petitioner, she is earning sufficient money and she is working in a reputed School and she is capable of taking care of the minor child. The respondent is not capable to maintain the child and he is depending upon the income of his father and therefore, the petitioner has to be appointed as 'guardian' of the minor child and interim custody of the child has to be given to the petitioner. In order to prove her case, she was examined as PW1 and Ex.P.1 and Ex.P.12 were marked. PW1 has deposed about her capacity to maintain the child.

8.1. Per contra, the respondent has denied the averments made in the petition and according to him, he is capable to maintain the child and now the child is studying in a reputed School at Cochin and he is doing real estate business and having sound financial capacity to maintain the child. In order to prove his case, he was examined as RW1 and Ex.R.1 to Ex.R.7 were marked. He has deposed about his capability to maintain the child and the minor child is now studying in a reputed School at Cochin.

8.2. The petitioner has also not denied the fact that the child is studying in a reputed School and divorce was granted in the year 2022 and now for the



past three years, the respondent is taking care of the child and now the child is studying in Kerala. There are no any grounds urged by the petitioner to grant custody of the minor child to the petitioner except that the respondent has no sufficient income and he is not in a position to maintain the child. For the past 3 years, the minor child is studying in a reputed School at Cochin and the respondent is only taking care of the child. There is no evidence to disqualify the respondent from having the custody of the minor child and mere oral evidence of PW1 is not sufficient. This Court also enquired the minor child and he is very comfortable with his father and he is willing to go to School from his father's house. However, during the holidays, he wants to spend time with his mother for some days and remaining days with his father.

9. After elaborate arguments, the learned counsel appearing for the petitioner has filed a memo stating that the petitioner agrees to have joint custody of the minor child till his completion of 18 years and he can live with his father in the present address and since the minor wants to continue his studies in the same School, the petitioner mother does not wish to disturb his living circumstances and the child will continue living with the respondent father. The petitioner agrees to have custody of the child during the *vacation holidays* under the following terms:



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- The 50% of the first half of the summer vacation, the minor will spend with the mother, immediately after the school closing, the mother will have custody.
- During the summer long holidays, the Passport and Aadhar card of the child Nathen Alex should be handed over to the petitioner mother by the respondent and the Mother shall return the same back to the respondent while the child is being returned to him.
- The petitioner will have the entire holiday custody of the child for Onam holidays and the Christmas holidays.
- The child should be dropped by the respondent father at Chennai Airport for all the holidays. The petitioner agrees to drop the child back to the Kochi Airport, while the child is returned back to the father.

As far as the *monthly visitation* is concerned, the petitioner agrees under the following terms:-

- The mother will have the right to visit the child on any time in his School.
- The petitioner agrees that during second Saturday of every alternative month, the father can drop the son to Chennai Airport and mother will drop back at Kochi Airport and other months, the mother will go to Kerala and the son can be brought to Kochi



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Airport and month will exercise her visitation rights by spending time with her son in Kerala. Every alternative month, the father can bring son to Chennai Airport and the father can pick the child at Kochi Airport or any mutually agreeable place in Kochi.

As far as the *academic participation*, the petitioner mother agrees as follows:-

- The petitioner mother will have access to the School portal of the minor and the father should agree to share / give access to the school calendar /yearly academic schedule to the petitioner.
- The petitioner will have the right to attend all school functions and events such as annual day, school day, Parent-Teacher meeting with prior intimation to the child and the respondent.
- The mother should get all communications from the School with regard to Nathen's academics.
- The mother should have the right to be informed in case of emergencies by the school.
- The mother should be informed regarding all medical emergencies and the mother should be able to access Nathen, during his sickness and medical emergencies.
- The mother should be able to access Nathen, if any medical emergencies arise to herself or any of his maternal grandparents or



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other family in Chennai and he should be allowed to travel for the same to Chennai.

- The mother should be given complete information regarding Nathen's Travel, if he is leaving his home town alone or with his father.

10. The respondent filed his objections for the said memo that he has agreed most of the proposals mentioned in the memo filed by the petitioner except in Para 2(iii) that the 'entire holiday custody of the child for Onam holidays and the Christmas holidays' and the respondent may be permitted to spend 50% of the Onam and Christmas vacation with the minor child. Further the Para 3(ii) of the memo is also not accepted, since the child is now studying in XI standard and for next year's board exams, he has to work hard. So it may not be possible for him to travel to Chennai in the weekends which may affect his studies and the petitioner can meet the child every month as part of her visitation rights in a common place like mall or restaurant either in Tiruvalla or in Kochi mutually agreed between the parties. As far as Para 4(vii) of the memo is concerned, during international travel, he has agreed to inform to the petitioner and the petitioner is in regular touch with the child by speaking to him regularly in his mobile and she has right to get information from him, so that, getting information in respect of leaving home town will not arise.



11. Therefore, in view of the above said discussions and on merits, the custody of the minor child cannot be given to the petitioner mother and the child need not be disturbed from the custody of the respondent father. Further based on the above terms of compromise, this Court is inclined to pass the following order:

The minor child namely Nathen Alex shall be under the custody of the respondent father and the custody cannot be disturbed. However, the petitioner mother is entitled to have visitation rights and interim custody in the following manner:

1. The petitioner mother shall have joint custody of the Minor Nathen Alex till the child attains majority and the minor child can live with his father / respondent in the present address. Since the minor child wants to continue his higher secondary studies in the same School, his living circumstances need not be disturbed by the mother / petitioner and child will continue living with his father / respondent.
2. The 50% of the first half of the summer vacation, the minor shall spend with his mother / petitioner, immediately after the school closing, the mother shall have the custody of the minor child.



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3. The petitioner/ mother shall have the custody of the minor child during the second half of the Onam and Christmas holidays.
4. The minor child shall be dropped by the respondent / father at Chennai Airport for all the holidays and the petitioner / mother shall drop the child back to Kochi Airport, while the child is returned back to the respondent / father.
5. The petitioner / mother will have the right to visit the minor child at any time in his school.
6. The petitioner / mother can meet the minor child every month as part of her visitation rights in a common place like mall or restaurant either in Tiruvalla or in Kochi mutually agreed between the parties.
7. The petitioner / mother shall have access to the School portal of the minor child and the respondent / father shall agree to share access to school annual academic schedule to the petitioner / mother.
8. The petitioner/ mother shall attend all school functions and events such as Annual day, Sports day, Parent-Teacher meeting with prior intimation to the child and the respondent / father.
9. The petitioner / mother shall be communicated with regard to the minor child's academics and she shall also be informed, in case of emergencies, if any, by the School.



10. The petitioner / mother shall be informed with regard to medical emergencies of the minor child and she shall also be able to access the minor child Nathen Alex, during his sickness and / or medical emergencies and similarly, the minor child shall also be able to access with minor child, if any medical emergency arises to her or any of the maternal grandparents or other family in Chennai and he shall be allowed to travel for the same to Chennai.

11. The petitioner / mother shall have regular touch with the minor child Nathen Alex by speaking to him regularly in his mobile and she has right to get information from him.

With the above said terms, this Original Petition is *disposed of*.

.....-01-2026

mjs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

APPENDIX:

List of Petitioner side Witnesses:

PW1 : MS. Leema Jacob

**List of Petitioner side Documents:**

Exhibit No.	Date	Description of Documents.
Ex.P.1.	29.03.2022	Photocopy of the translated version in English of the judgment of divorce in the Law Suit No.62 of 2022 between the petitioner and the respondent by the Family Court at State of Qatar.
Ex.P.2	27.06.2022	Photocopy of the translated version in English of the Judgment in the Law Suit No.669 of 2022 giving custody of the minor son Nathen Alex to the respondent father by the Family Court at State of Qatar.
Ex.P.3	28.07.2022	Photocopy of the translated version in English of the judgment in the Law Suit No.853 of 2022 giving visitation rights to the petitioner mother by the Family Court at State of Qatar.
Ex.P.4.	-	Photocopy of PW1's Aadhar Card.
Ex.P.5	-	Computer generated Birth Certificate of PW1's minor son Nathen Alex.
Ex.P.6	-	Certified filed by PW1 under Section 65B of the Indian Evidence Act, 1862.
Ex.P.7	18.06.2023	Copy of the email communication between the PW1 and the respondent.
Ex.P.8 series (3 nos.)	October 2024 to December 2024	Original pay slips.
Ex.P.9	01.03.2025	Original Employment letter issued by Green Field Chennai International School.
Ex.P.10	-	Brochure of Green Field Chennai International School.
Ex.P.11	-	IT Return of PW1 for the assessment year 2024-2025.
Ex.P.12	-	Certificate under Section 65B of the Indian Evidence Act, 1872

**List of Respondents side Witnesses:**

RW1 : Mr. Pravin Kuruvilla Alex.

List of Respondents' side Documents:

Exhibit No.	Date	Description of Documents.
Ex.R.1.	08.10.2024	Downloaded copy of the Fee Certificate.
Ex.R.2	-	Photocopy of the Aadhar Card of RW1
Ex.R.3	-	Photocopy of the Aadhar Card of RW1's minor son Nathen Alex.
Ex.R.4.		Downloaded copy of RW1's income tax returns for the assessment year 2010-2011.
Ex.R.5	-	Certificate of merit of RW1's minor son for Basket Ball Tournament.
Ex.R.6	-	Downloaded copy of the report card of RW1's son Nathen Alex for Class X.
Ex.R.7	-	Certificate under Section 65B of the Indian Evidence Act, 1872.

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Pre-delivery Order in
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