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OP No. 350 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-01-2026

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

OP No. 350 of 2025

C.Diwaker

S/o.S.Chakravarthy, 43/536A, J.V.Stalin
Street, Rajajipuram, Tiruvallur District,
Tiruvallur - 602 001.

Petitioner(s)

Vs

M.Suba

D/o.G.Muthukrishna Naidu, No.425/5,
Neerazhi, Ayikuppam, Cuddalore
District - 607 301.

Respondent(s)

PRAYER: The Original Petition has been filed under Sections 3,7 to 10 and 25 of the Guardians and Wards Act and under Order XXI Rule 2 and 3 of Original Side Rules and Clause XVII of Letters Patent Act praying for appointing and declaring the petitioner as the guardian of the person of the minor girl child D.Shanvi aged about two years and declaring the petitioner to have the permanent custody of the minor girl child D.Shanvi.

For Petitioner(s): Ms. C.S.Sreenedhi

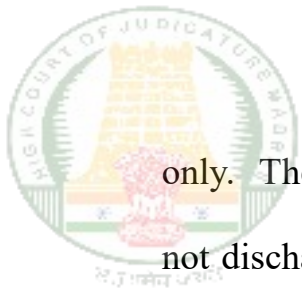
For Respondent(s): Ms. R. Saraswathi



ORDER

This petition has been filed under Sections 3, 7 to 10 and 25 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of the Original Side Rules read with Clause 17 of the Letters Patent Act praying for appointing and declaring the petitioner as the guardian of the person of the minor girl child D.Shanvi aged about two years and declaring the petitioner to have the permanent custody of the minor girl child D.Shanvi.

2. According to the petitioner, marriage was solemnised between the petitioner and the respondent on 08.05.2022 as per Hindu rites and customs and out of the wedlock, they have one daughter namely D. Shanvi. There were matrimonial disputes between the parties. The respondent was never interested in family life and she had the habit of checking the petitioner's cell phone while he is sleeping and caused mental stress to the petitioner and she did not discharge her duties as wife and there were several issues between the petitioner and the respondent. When she became pregnant, she did not want a girl baby. The respondent had a history of attempting suicide during her college times and she had a sadistic nature and the same shall affect the welfare of their minor daughter. The respondent's suicidal thoughts and threatening to suicide is a way of emotional blackmail. The respondent delivered a female baby on 26.06.2023. All the delivery expenses were incurred by the petitioner's family



only. The petitioner's mother only took care of the child. The respondent did not discharge her duty as a mother. The respondent went to her father's house in December 2023 without even taking the few months' old baby. She never bothered about the child's well-being. The nature of respondent is very dangerous and unsafe to the child. The respondent was never ready for reconciliation and to live with the petitioner.

2.1. On 04.07.2024, the petitioner handed over all the belongings of the respondent and her jewellery in the presence of the parents of the respondent. On that day, the respondent executed an agreement stating that she has received all her belongings and jewellery and she is pursuing a course and that she will come back to live in the matrimonial house in three months and if she does not come back within 3 months, the petitioner is open to take any legal action. As per the promise in the said agreement, the respondent neither came to matrimonial home to live with the petitioner nor bothered about the minor child. When the respondent left the matrimonial home during December 2023, the minor child was aged 6 months old and now the child is aged 1 year and 10 months. The child is growing with the petitioner and his family members. The respondent never had any interest towards family life and did not take care of the minor child and she abandoned the new born baby. The petitioner is a Marine Engineer and he is capable of taking care of his daughter. The



respondent is not a fit person to take care of the child. She may try to disturb the custody of the minor child from the petitioner with a sole intention to harass the petitioner. In order to safeguard the interest and welfare of the child, it is just and necessary to restrain the respondent from causing disturbance and to appoint and declare the petitioner as a guardian of the child and to give permanent custody of the minor child to the petitioner. The paramount importance of the welfare of the minor child requires brought up of the child under the care and custody of her petitioner father. The petitioner undertakes to take care of the child and he is also having requisite resources to provide for the emotional, educational and social needs of the child. The petitioner has no adverse interest against the minor daughter. Therefore, the petitioner has filed this petition seeking permission to appoint him as guardian for the person and property of the minor child and to grant permanent custody of the child so as to prevent the respondent from interfering with the education, growth and development of the child.

3. Notice served on the other side and paper publication was also effected. No objection has been raised. The matter was posted for examination of witnesses. On the side of the petitioner, PW1 was examined and Ex.P.1 to Ex.P.11 were marked.



4. This Court also perused the evidence and the entire records.

5. As per the evidence of PW1 and the documents Ex.P.1. to Ex.P.11, they revealed that the petitioner and the respondent are the husband and wife and they are the parents of the minor child namely D. Shanvi. There is matrimonial dispute between the parties. Despite notice and paper publication was effected, the respondent did not appear. Even before the masters Court, despite sufficient opportunities, the respondent did not appear and cross examine PW1.

6. The minor child is now under the care and custody of the petitioner father. The petitioner contended that the respondent neglected him and the minor child and she did not discharge her duties as a mother. The petitioner has proved his case through sufficient evidences and documents. The evidence of the petitioner is not rebutted by the respondent. The petitioner being the father, is only taking care of the minor child and he has no any adverse interest against the minor child and therefore, he can be appointed as guardian of the minor child in her best interest. Therefore, the petitioner is entitled to be appointed as guardian of the person and property of the minor child D. Shanvi and to have permanent custody of the minor child.



7. In view of the above discussions, this **original petition is allowed on the following terms:**

(i) The petitioner father is appointed as a 'guardian' for the minor child D. Shanvi of her person and property till her attaining age of majority.

(ii) The petitioner father is also granted permanent custody of the minor child D. Shanvi, till her attaining age of majority.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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APPENDIX:

List of Petitioner side Witnesses:

PW1 : Mr. C. Diwaker

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents
Ex.P.1.	-	PW1's Marriage Invitation Card.
Ex.P.2	-	Photocopy of PW1's Marriage photograph.
Ex.P.3	-	Computer generated Birth Certificate of PW1's minor daughter D. Shanvi.
Ex.P.4.	-	Photograph of PW1's minor daughter D. Shanvi.
Ex.P.5	04.07.2024	Photocopy of the agreement entered into



		between PW1 and the respondent.
Ex.P.6	21.04.2025	Photocopy of the Certificate of Medical Fitness of PW1's daughter D. Shanvi.
Ex.P.7.	-	Photocopy of the Immunisation and health record of PW1's daughter D. Shanvi.
Ex.P.8.	-	Photocopy of PW1's Aadhar Card.
Ex.P.9.	-	Downloaded copy of PW1's Indian Bank Account Statement bearing A/c. No.6450985489.
Ex.P.10.	-	Certificate under Section 63(4)(C) of B.S.A. for electronic documents.
Ex.P.11	-	Pendrive for Ex.P.2 and Ex.P.4.

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