



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2026

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CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

OP No. 80 of 2025

1. Radhakrishnan T
S/o. Late G.Thandavarayan,
No.39/2, Govindan Street,
Ayyavoo Naidu Colony,
Aminjikarai, Chennai 600 029.

2. R.Sasikala
W/o.Radhakrishnan.T,
No.39/2, Govindan Street,
Ayyavoo Naidu Colony,
Aminjikarai, Chennai 600 029.

..Petitioners

Vs

Pusparaj M
S/o. Manickam,
No.37,38, New No.4, Thirupachi Street,
Ayanapuram, Chennai 600 023.

..Respondent

PRAYER: This Original Petition is filed under Sections 3,7,8,9,10 & 25 of the Guardians and Wards Act of 1890, Section 13 of the Hindu Minority and Guardianship Act, 1956 read with Order XXI Rule 2,3 of the OS Rules read with Clause 17 of the Letters Patent, praying to a) appoint the petitioners (Maternal grandparents) as the guardian of person of the minor child N.Pranikha and b) grant permanent custody to the petitioners herein of the minor child N.Pranikha.

For Petitioners:
For Respondent:

Mr.P.Satheesh Kumar
Mr.V.V.Sathya



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ORDER

This Original Petition is filed under Sections 7, 8, 9, 10 and 25 of the Guardians and Wards Act, 1890, Section 13 of the Hindu Minority and Guardianship Act, 1956, read with Clause 17 of the Letters Patent, praying that the petitioners be appointed as the guardians of the person of the minor N. Pranikha and be granted her custody.

2. The petitioners' case is that they are the maternal grandparents of the minor girl N. Pranikha, born on 03.06.2009. Of their three children, their third daughter, Subalakshmi, was married to one P. Nagaraj on 09.07.2008, and the minor was born of that marriage on 03.06.2009. The marriage did not last; it was dissolved by mutual consent before the III Additional Family Court, Chennai, by order dated 30.07.2018, and in the connected proceedings, the custody of the child was vested with the mother.

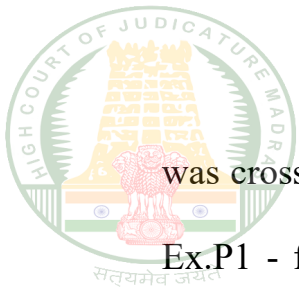
3. The petitioners further aver that the mother, Subalakshmi, died of cancer on 25.09.2023, and that the father, Nagaraj, died of ill health shortly thereafter, on 10.11.2023, so that the child was left an orphan during her minority. They state that, since her infancy, the child has been brought up in their family, along with her mother during the mother's lifetime, and that she continues to live with them and is being educated. The respondent, the paternal



grandfather, has been impleaded as the nearest paternal kin, though, according to the petitioners, he has neither claimed guardianship nor had custody of the child. The petitioners assert that the first petitioner owns a house and has rental income, in addition to a pension of about Rs.38,888/-, that they can provide for the child's needs and education, and that, as the child has lost both parents, they must be appointed her guardians. They accordingly pray for guardianship of the person and for custody.

4. The respondent, in his counter, admits the essential facts pleaded in the petition, namely, the marriage of the parties' children, the birth of the minor, the dissolution of that marriage, the death of both parents, and that the child has been living with the petitioners for over two years. His objections are that the petition has been filed on false and frivolous grounds only to harass him; that, though he is the paternal grandfather, he was not allowed to see the child even once in those two years; that he too is fully capable and willing to maintain the child and to have her custody; and that the petitioners are, in truth, seeking custody with the design of getting at a joint bank account and a life insurance amount. He prays that the petition be dismissed and, in the alternative, that he be permitted to meet the child once a week at a common place near her residence.

5. On the side of the petitioners, the first petitioner examined himself as P.W.1 and filed a proof affidavit, also on behalf of the second petitioner. He



was cross-examined on behalf of the respondent and marked EX.P1 to Ex.P13 .

Ex.P1 - family card; Ex.P2 series - Aadhaar cards of the petitioners; Ex.P3 - birth certificate of the minor; Ex.P4 - bonafide certificate of the minor from her school; Ex.P5 - certified copy of the order of dissolution of marriage dated 30.07.2018 in O.P.No.2335 of 2017; Ex.P6 - memorandum of compromise in Crl.O.P.No.3667 of 2013; Ex.P7 - webcopy of the order dated 31.07.2017; Ex.P8 - death certificate of Subalakshmi; Ex.P9 - death certificate of Nagaraj; Ex.P10 - legal heirship certificate of Subalakshmi; Ex.P11 - bank account statement of the first petitioner; Ex.P12 - pension details of the first petitioner; and Ex.P13 - the certificate-affidavit under Section 63(4)(c) of the Bharatiya Sakshya Adhiniyam.

6. In his cross-examination, P.W.1 deposed that the child has been living with him from the age of eight months; that her mother was employed; that no one else is dependent on his income; that he meets the child's educational expenses out of his pension and rental income; that the house in which he lives is rented, but that he owns a house in his native place, the income from which is to go to the child after his lifetime; that the child's father, during his lifetime, used to visit her; that the respondent has not visited the child even once after the death of his son; and that he, P.W.1, is willing to educate the child up to the college level and is willing to permit the respondent to see the child once a month, adding that the respondent does not answer his telephone calls. The



respondent did not enter the witness box and gave no evidence.

7. This court heard the learned counsel on both sides and perused the materials on record.

8. The following points arise for consideration:

- (i) Whether the welfare of the minor lies in appointing the petitioners as the guardians of her person and granting them her custody?
- (ii) Whether the respondent is entitled to the custody of the minor as prayed in his counter, or to any visitation?
- (iii) To what relief are the parties entitled?

Point Nos.1 and 2

9. The welfare of the minor is the paramount consideration under Section 13 of the Hindu Minority and Guardianship Act, 1956, and Section 17 of the Guardians and Wards Act, 1890. Both parents of the minor N. Pranikha are no more. The evidence of P.W.1 shows that the minor has been living with the petitioners, who are her maternal grandparents, from about eight months of her birth, first along with her mother and thereafter in the continued care and custody of the petitioners. She is pursuing her studies and her educational and other needs are being met by the petitioners from the first petitioner's pension and rental income. P.W.1 has also stated that he is willing to educate her up to college level. This evidence has not been shaken in cross-examination. The

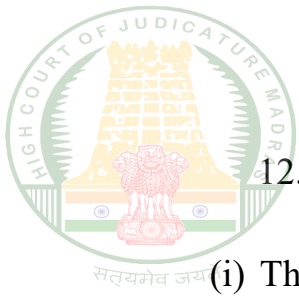


materials on record therefore show that the minor is settled in the care of the petitioners and that they are fit and proper persons to be appointed as guardians of her person.

10. The respondent, though he is the paternal grandfather, has not entered the witness box and has not adduced any evidence to show that the welfare of the minor would be better served by granting custody to him. His allegation that the petitioners have filed the petition to gain access to a bank account or insurance amount remains only an unproved plea. He has also not established any active role in the life of the minor after the death of his son. Hence, his claim for custody cannot be accepted. At the same time, being the paternal grandfather, his wish to maintain a bond with the child is legitimate. Since P.W.1 has expressed willingness to permit the respondent to see the minor, the respondent can be granted reasonable visitation, subject to the convenience and willingness of the minor. Accordingly, Point No.1 is answered in favour of the petitioners, and Point No.2 is answered by holding that the respondent is not entitled to custody but is entitled only to visitation as directed.

Point No.3

11. In view of the findings on Points No.1 and No.2, the petition deserves to be allowed, with appropriate provision for the respondent's visitation .



12. In the result, the Original Petition is allowed in the following terms:

- (i) The petitioners, the maternal grandparents, are appointed jointly as the guardians of the person of the minor N. Pranikha.
- (ii) The custody of the minor shall continue with the petitioners;
- (iii) The respondent is granted liberty to visit and meet the minor once a month, on a day and at a place convenient to the child, the petitioners facilitating the same; having regard to the age of the minor, such meeting shall be subject to her willingness, and after giving advance intimation to the petitioners;
- (iv) If any bank deposit, insurance or other amount is due to the minor, the same shall be kept secure and intact for her benefit; the petitioners, as guardians, shall protect the minor's properties and shall render account thereof to this Court if and when called upon; and

13. There shall be no order as to costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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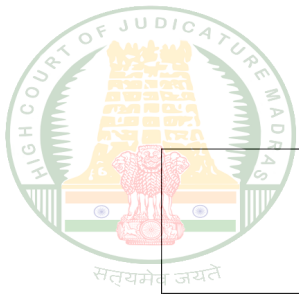
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Petitioners' witness:

P.W.1 – Mr.T.Radhakrishnan

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of our family card
Ex.P2	Photocopies of the Aadhaar Card of the petitioners
Ex.P3	Computer generated birth certificate of minor child N.Pranikha
Ex.P4	Original bonafide certificate of the minor N.Pranikha dated 06.01.2024 issued by Kola Perumal Chetty Vaishnav Senior Secondary School
Ex.P5	Certified copy of the fair and decreetal order dated 30.07.2018 in O.P.No.2335 of 2017 passed by the III Additional Family Court, Chennai.
Ex.P6	Photocopy of Memorandum of compromise filed in CrI.O.P.No.3667 of 2013 in C.C.No.2739 of 2012.
Ex.P7	Downloaded webcopy of the order dated 31.07.2017
Ex.P8	Computer generated death certificate of Mrs.Subalakshmi
Ex.P9	Computer generated death certificate of Mr.Nagaraj
Ex.P10	Computer generated legal heirship certificate of Mrs.Subalakshmi
Ex.P11	Computer generated Mr.T.Radhakrishnan's account



	statement bearing Account No.131001000033611 with Indian Overseas Bank
Ex.P12	Downloaded copy of Mr.T.Radhakrishnan's pension details for 2023-2024
Ex.P13	Affidavit under Section 63(4)(c) of BSA

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DR.A.D.MARIA CLETE, J.

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