

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
KANCHEEPURAM DISTRICT AT CHENGALPATTU.**

Present : **Tmt.J.Mavis Deepika Sundaravadhana, M.A.,M.L.,**
Principal District Judge, Chengalpattu.

Wednesday the 28th day of February 2024

I.A.No.1 of 2023
in
GWOP.No.43 of 2020

G.Narasimhan . . . Petitioner / Petitioner.

/Vs/

K.Priyadharshni . . . Respondent / Respondent.

This petition came up before me in this court for final hearing on 7.2.2024, in the presence of Tvl.S.Raman and P.Kalaiselvan, Advocates for the petitioner and the respondent set exparte after service of summons, upon perusing the entire records and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition is filed by the petitioner under Section 12 of Guadian and Wards Act praying for the custody of male child Pragalatha during every week end from Friday evening 6.00 p.m., to Sunday evening 7 p.m.

2. **The case of the petitioner in brief :**

The petitioner and the respondent are blessed with male child

born on 28.8.2021 namely Pragalatha. All of a sudden on the third day after the birth of son, the respondent left the petitioner and went to her maternal home along with child due to ill advice of her mother. Thereafter she did not return back to matrimonial home and became deserted. Having no option, the petitioner when go to see the child one or two times per week, the respondent / wife and mother-in-law made vexatious quarrel with abusing language. After lapse of 5 months, due to good advise by petitioner's father-in-law the respondent returned back to matrimonial home along with child. But due to the threat by respondent's mother, the respondent again left the petitioner and went to her maternal home along with son and also stubbornly refused to show the child to the petitioner at any point of time. Hence, the petitioner filed petition in IA 132/2019 for visiting rights under Section 26 of Hindu Marriage Act before the Sub Judge, Tambaram in HMOP.No.85/2016 which was filed by the respondent for divorce and the same was allowed in favour of petitioner. Even though the respondent did not choose to obey the above said order and not properly appeared in the main HMOP proceedings and the HMOP 85/2016 was dismissed for default. While pendency of the above said HMOP, the petitioner filed the above GWOP 43/2019 and the respondent / wife was set exparte for non filing of counter. Since there is no communication between

the petitioner and minor child Pragalatha, the minor child should know who is the father. Then only possible to proceed with main OP. Hence, the petition.

3. Though service held sufficient for the respondent, she failed to appear before this court, and remained exparte.

4. The only point that arises for consideration is whether the application is liable to be allowed.

5. Point :

This petition is filed under Section 12 of Guardian and Wards Act for custody of the child during week end more particularly from Friday evening 6.00 p.m., to Sunday evening 7.00 p.m. It is an admitted fact, the petitioner and the respondent are husband and wife. The marriage and the child birth is not disputed. A male child namely Pragalatha was born on 28.8.2014. It is also admitted HMOP was filed by the wife for divorce in HMOP 85/2016. While so, the petitioner / husband filed guardian OP for custody of the only child. The respondent / wife remained exparte in the guardian OP as well as in the IA in HMOP for interim custody. The custody of the child has to be decided in the main OP. But the petitioner being the father has a right to visit and spend time with him. Since there is no dispute with respect to the paternity of the petitioner it is appropriate to order for visitation right of the child.

6. Therefore petitioner is granted visitation right of the child on all Sundays from 10.00 a.m., to 4.00 p.m., in any common place or the residence of either of the parties as agreed between them.

7. As the result, petition is allowed. The petitioner is granted visitation right of the child on all Sundays between 10.00 a.m., to 4.00 p.m., in any common place or the residence of either of the parties as agreed between them. No cost.

Dictated by me to the steno-typist, computerized by her directly, corrected and pronounced by me in open court, on this the 28th day of February 2024.

Principal District Judge,
Chengalpattu.

Both side witness and exhibit :
Nil.

Principal District Judge,
Chengalpattu.