

HIGH COURT OF MADRAS**Bench: Justice P. Dhanabal****Date of Decision: 12th January 2024**

C.M.A.(MD)Nos.584 and 585 of 2014

M.P.(MD) No.1 of 2014

S.RAJ ...APPELLANT/PETITIONER**VERSUS****RATCHAKA ...RESPONDENT/RESPONDENT****Legislation:**

Sections 7, 8, 47 of the Guardian and Wards Act

Subject: Appeals against orders in G.W.O.P Nos. 8 and 9 of 2012 regarding the appointment of a guardian for the minor child Varunavi following the demise of the child's parents in a road accident.

Headnotes:

Custody and Guardianship of Minor Child – Varunavi, a minor whose parents died in a road accident, became the subject of a guardianship dispute between the paternal grandfather (Appellant) and the maternal grandmother (Respondent) – Both filed petitions under the Guardians and Wards Act for appointment as guardian of the child's person and property. [Para 2]

Trial Court Decision – Custody of the child was granted to the maternal grandmother with the trial court allowing G.W.O.P. No. 8 of 2012 filed by the maternal grandfather and dismissing G.W.O.P. No. 9 of 2012 filed by the paternal grandmother. [Para 3]

High Court Ruling – Following an interim order and mutual agreement by both parties, the Court confirmed the interim order as final – The maternal grandparents are appointed guardians of Varunavi for both person and property, with specific conditions regarding custody and care arrangements – The paternal grandfather to hand over the child to the maternal grandparents every weekend and comply with certain conditions regarding the child's care. [Paras 4, 5]

Directions Issued – Conditions set for the care and custody of the minor child, including provisions for food and contingencies if the appellant cannot care for the child. [Para 4]

Appeals Disposed – Both Civil Miscellaneous Appeals disposed of with the above directions, and the connected miscellaneous petition is closed. [Para 5]

Referred Cases: Not mentioned

Representing Advocates:

For Appellant: Mr. M.Divakaran

For Respondent: Mr. M.Muthugeethayan for Mr. D.Srinivasa Raghavan

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed as against the order passed in G.W.O.P Nos.8 of 2012 and 9 of 2012 on the file of the learned Principal District and Sessions Judge, Theni for the relief of appoint of guardian for the minor child Varunavi under Sections 7 and 8 of the Guardians and Wards Act.

2. The appellants in both appeals is the paternal grant father of the minor child and the respondent is the maternal grand mother of the minor child. Both the parents of the minor child died in the road accident in the year 2010. The maternal grand father filed a petition in G.W.O.P.No.8 of 2012 and the paternal grand mother filed G.W.O.P.No.9 of 2012 for the relief to appoint them as Guardian for the minor child Varunavi for the person and property.
3. After hearing both sides the trial Court has directed the custody of the child with the maternal grand mother and allowed the G.W.O.P.No.8 of 2012 and dismissed G.W.O.P.No. 9 of 2012. As against the orders, the paternal grand father has filed the present appeals.

4. When the matter was taken up for hearing today both side counsels represented that already this Court has passed an interim order and in pursuance to the interim order passed by this Court, the minor is under the custody of the appellant and therefore both the counsels agreed to confirm the interim order passed by this Court as final order. In view of the above submissions this Court is inclined to pass the following order:

- i) the maternal grand parents of the minor child Varunavi are appointed as guardian to the minor child Varunavi for the person and property and the respondents/maternal grand mother and grand father have to stay in a house near the place where the child was residing with the parental grand father. Thereafter during every weekend namely Saturday and Sunday the appellants shall hand over the minor child to the maternal grand parents.
- ii) Whenever the maternal grand parents wish to give the minor child food prepared by them, they can provide the same to the minor child, for which, the appellant shall not object.
- iii) if the appellant at any point of time on account of any reason is not able to take care of the minor child he shall leave the child in the custody of the maternal grand parents.

5. With the above direction, both the Civil Miscellaneous appeals are disposed of. Consequently connected miscellaneous petition is closed.

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