



**CIVIL COURT
(FAMILY SECTION)**

JUDGE ANTONIO G. VELLA, LL.D

Sitting of the 15th of July 2021

Application no: 17/21 AGV

ABC

Vs

Dr Noel Bartolo and Legal

Procurator Quentin Tanti

as curators for the absent

DEF

The Court

Having seen the application of the plaintiff dated 19th January two thousand and twenty one where she sat out with respect and submitted the following under oath:-

That applicant has a relationship with respondent def, from which relationship born a daughter GHIF on the twentieth (20) of September of the year two

thousand and sixteen (2016) as it is indicated in her birth certificate herewith marked and attached as Doc A.

That respondent a *motu proprio* abandoned applicant and thus their relationship was also abandoned, and the above-mentioned minor is being raised exclusively by the applicant, while respondent went back to the United States and he is not seeing the minor daughter;

That essentially the respondent does not contribute at all to the upbringing of the said minor daughter in regards to her maintenance, education and health;

That in this regard, the applicant is bringing this application in order to request this Honourable Court to entrust her with the care and custody of the minor and so that in the absence of the father, that is the absent DEF she can take the important decisions necessary for the upbringing of the minor GHIF.

The applicant therefore humbly requests that the Honourable Court should:

1. Order that the care and custody of the minor GHIF be entrusted solely and exclusively to the applicant provided that the respondent has access to the said minor daughter GHIF when, if and how many times, he returns to Malta and this always in accordance with such modalities as this Court deems appropriate;
2. Order that the benefit and / or social assistance payable to the said minor, namely GHIF, be received only by the applicant;
3. Establish an adequate rate for the same minor taking into account her health and education needs, which should be periodically reviewed according to the respondent's means and revisable according to the cost of living and

this until the same daughter GHI becomes of age, which rate shall be due from the date of birth of the same daughter GHIF.

4. Order that the minor GHIF resides permanently with the applicant;

With interest and costs against the respondent who from now on will be called to refer to his evidence.

Having also seen the sworn reply of the curators Dr Noel Bartolo and Legal Procurator Quentin Tanti dated 3rd of March two thousand and twenty one, were they submit:-

1. That at this stage they are unaware of the circumstances of this case and therefore they reserve the right to file a further reply if and when they are properly briefed. To this end they request plaintiff to furnish them with any means of communication with the absentee.
2. That in these cases the Court ought to ensure the supreme interests of the minor child.
3. Save further pleas according to law.

Having heard all the evidence submitted by the parties.

Having seen all the documents exhibited.

CONSIDERS:

That this case relates to a care and custody matter. Plaintiff has already been granted temporary custody of the two minor children by means of a decree of this same Court dated 16 February, 2021. Since defendant has failed to make contact with the curators appointed by the Court on his behalf, this case contains evidence solely produced by plaintiff. Consequently, the version of events as recounted by plaintiff can be taken as undisputed facts, since no other evidence to the contrary has been brought to the Court's attention.

The parties had a relationship between them, from which a child was born in September 2016. Plaintiff claims that defendant, Dr DEF, suffers from a severe alcohol addiction problem, so much so that this escalated in August of last year, whereby Dr F left the house the family was living in and never returned. She eventually got to know that he had returned to his mother's in the United States, and she has not heard from him since. It was for this reason that she filed these proceedings in the Maltese Courts. Plaintiff recounts a number of other incidents and instances where Dr F was under the influence of alcohol. None of these need be repeated at this juncture in the proceedings. As already stated, given that defendant has not made contact with the curators appointed to represent him, the Court can take plaintiff's version of events as proven facts.

Plaintiff is requesting that she be granted sole custody of the child GHIF that the child resides with her, and that defendant be ordered to pay maintenance towards the child. With regard to this last request made by plaintiff, there was no evidence submitted as to the needs of the child or the defendant's income. Plaintiff also failed to show that defendant never actually contributed anything to the child's upkeep. The Court will therefore have to remain within the minimum threshold normally applied in such cases, taking into account the child's age and basic health and educational needs. All the other requests made by plaintiff will be upheld by the Court. It is of paramount importance that G be brought up in a safe

and stable environment, that all her needs are met and addressed, and that both parents contribute to her general well-being.

DECIDE:

For these reasons the Court upholds the requests made by plaintiff:

1. Orders that the care and custody of the minor GHIF be entrusted solely and exclusively to the plaintiff, provided that the defendant has access to the said minor daughter GHIF when, if and how many times, he returns to Malta and this always in accordance with such modalities as this Court may deem appropriate in the future;
2. Orders that the benefit and / or social assistance payable to the said minor, namely GHIF, be received only by the plaintiff;
3. Orders maintenance for the minor child to be paid by defendant in the sum of three hundred and thirty Euro (€330) payable every month, which sum shall increase every two (2) years by thirty Euro (€30) every month, until the child reaches the age of eighteen (18) or until she reaches the age of twenty-three (23) if she continues studying and is not in full time employment. Such maintenance includes defendant's share of half the ordinary health and education expenses, and is due with effect from the date of this judgment.
4. Orders that the minor GHIF resides permanently with the applicant.

Given that curators were appointed in this case, costs will be temporarily borne by plaintiff, and shall become recoverable directly from defendant in the event that their recovery becomes enforceable according to law.

Judge Anthony J. Vella

Registrar