



**FIL-QORTI CIVILI
(SEZZJONI TAL-FAMILJA)**

L-ONOR. IMHALLEF ANTONIO G. VELLA

Seduta ta' nhar it-Tlieta 5 ta' Dicembru 2023

Rikors Guramentat nru : 123 /2023 AGV;

NC

vs

L-Avukat Leontine Calleja u l-
Prokuratur Legali PL Gerald Bonello
nominati kuraturi biex jirrapprezentaw
lill-assenti PN

Il-Qorti,

Rat ir- Rikors gumentat ta' NC datat fejn ippremettiet:-

1. Illi l-partijiet kellhom relazzjoni intima mil-liema relazzjoni twieled il-minuri
ONC
2. Illi llum il-gurnata ir-relazzjoni ta' bejniethom tkissret b'mod irrimedjabbli.
3. Illi l-Minuri jirrisjedi mar-rikorrenti ommu u li minn dakinhar li twieled il-
minuri sal-gurnata tal-lum hija l-istess rikorrenti esponenti illi dejjem hadet
hsieb il-bzonnijiet ta' binha wahdu u fil-fatt l-intimat qatt ma kkontribwixxa
bl-ebda mod ghall-istess ibnu u bil-kemm qatt wera x-xewqa li jkollu access
mieghu ghajr ghal xi ftit drabi.
4. Illi xhur ilu l-intimat telaq mil-pajjiz minghajr ma' ta' l-ebda informazzjoni
dwar fejn huwa kien sejjer jirrisjedi hlief illi stqarr mal-esponenti illi huwa
kien sejjer jghix gewwa ir-Renju Unit.
5. Illi l-intimat tul il-hajja ta' ibnu forsi ghamel zewg pagamenti ta' hamsin (€50)
Euro lejn il-harsien tieghu, izda qatt ma' ghamel l-ebda kontribuzzjoni ohra
ghall-manteniment jew fir-rigward tas-sahha u edukazzjoni tal-istess minuri.
6. Illi huwa fl-ahjar interess tal-minuri li r-rikorrenti tigi fdata l-kura u l-kustodja
esklussiva tal-minuri ONC dan ukoll kif ser jigi pruvat fil-mori tal-kawza.
7. Illi saret seduta wahda tal-medjazzjoni izda stante li l-intimat mhux qieghed
fil-gzejjer Maltin, l-medjazzjoni bejn il-partijiet ma setghetx titkomplu u
konsegwentement, ir-rikorrenti giet awtorizzata tintavola l-kawza odjerna u

dan kif inhu evidenzjat mid-Digriet ta' din l-Onorabbli Qorti datat 16 ta' Marzu 2023, ittra numru 345/23.

Ghaldaqstant in vista tal-premess ir-rikorrenti qieghda titlob bir-rispett illi dina l-Onorabbli Qorti joghgobha:-

1. Tafda l-kura u l-kustodja legali tal-minuri ONC f'idejn ir-rikorrenti omma b'mod esklussiv u tawtorizzaha taghmel dawk l-atti kollha fir-rigward tat-trobbija tat-tifla minuri minghajr il-firma jew il-kunsens tal-intimat missierha.
2. Tiffissa somma adegwata ghall-manteniment ghall-minuri, liema manteniment ghandu jinkludi wkoll edukazzjoni u sahha tal-minuri.
3. Tordna lill-intimat sabiex ihallas din is-somma hekk likwidata direttament lir-rikorrenti f'kont bankarju ndikat mill-istess rikorrenti f'data iffissata minn din l-Onorabbli Qorti kull erbgħa (4) gimghat.
4. Tawtorizza lir-rikorrenti sabiex tapplika ghall-passaport relattiv tal-minuri minghajr il-kunsens jew il-firma tal-intimat.
5. Tawtorizza lir-rikorrenti sabiex issiefer barra minn Malta flimkien mal-minuri minghajr il-firma jew il-kunsens tal-intimat.

Bl-ispejjez.

Rat ir-Risposta tal-Kuraturi Deputati ghal assenti PN fejn eccepew is-segwentanti:-

1. Illi f' dan l-istadju l-esponenti mhux edotti mil-fatti u ghalhekk jirriservaw illi jipprezentaw risposta ulterjuri fi stadju tal-proceduri, jekk ikun il-kaz.
2. Il-kuraturi jitolbu li jinghataw l-ahhar indirizz postali u elettroniku tal-intimat minnhom rapprezentat, jew dettalji ohra li bihom jistghu jaghmlu kuntatt mal-assenti.
3. Illi hija l-attrici li trid tikkonvinci lil Onorabbli Qorti, li t-talbiet taghha jistghu jigu approvati.
4. Salv eccezzjonijiet ulterjuri bl-ispejjez kontra r-rikorrenti.

Further to a Court decree, the proceedings were ordered to be held in English.

Having seen all the acts and documents exhibited in the case.

Having considered that Defendant did not produce any evidence.

Facts

Plaintiff confirms that she was in a relationship with Defendant, out of which they had a son ONC , who is presently 7 years old.

Once their relationship was over, Plaintiff admits having had to initiate mediation proceedings so as to be granted the care and custody of the minor child. However, the mediation proceedings had to be terminated because Defendant only attended for one sitting.

Without any prior warning, Defendant had decided to move overseas, and he had not even given any prior notice to Plaintiff. It was through a telephone conversation that Defendant had admitted to her that he had moved to the UK

permanently. However, he did not give her any information as to his place of residence and she confirms not having anywhere were to contact him, thereby making it difficult for her to obtain maintenance for her son.

CONSIDERATIONS:

Care and Custody

In determining cases regarding the care and custody of a child, the Court has always considered first and foremost the best interests of the minor child.

O has from the day of birth always resided with his mother, and she has been the person who has always paid for his needs. Defendant very rarely asked to have access to the minor child, during the time he was in Malta.

Defendant then just decided to leave Malta, without informing Plaintiff or seeing his son. He just called Plaintiff to inform her that he would be moving permanently to the UK and moreover, he did not even bother to leave any contact where Plaintiff could communicate with him to speak to the minor child.

This total indifference towards his minor son and furthermore not even leaving any information where he could be reached, signifies nothing to this Court, except that Defendant has no interest in playing his role as a father.

In such circumstances, the Court concludes that Plaintiff be granted with the care and custody of the minor child O.

Maintenance

Plaintiff did not produce evidence as to Defendant's income, but nonetheless it was difficult for her to do so, since it is not possible for her to contact him.

In deciding maintenance, the court needs information on the income of the person requested to pay maintenance as well as the needs of the parent requesting maintenance.

Although Plaintiff did not produce a statement of the expenses she has incurred in bringing up the child, the Court can conclude that they are no more than the basic expenses.

As to Defendant, in the lack of evidence as to his work and income, the Court generally adopts a minimum amount of €200 monthly to be paid by him to Plaintiff for the minor child.

DECIDE:

In the light of all the abovementioned circumstances, the Court decides as follows:-

1. Upholds the first request.
2. Upholds the second request and order Defendant to pay Plaintiff the sum of €200 monthly, as well as half the education and health expenses until the child reaches majority, starts working or until the age of 23 if he continues to study on a full-time basis.
3. Upholds the third request.

4. Upholds the fourth request.
5. Upholds the fifth request.

All costs are to be borne temporarily by Plaintiff but shall become recoverable in full from Defendant when his whereabouts are determined.

Hon. Mr. Justice Anthony J. Vella

Registrar