



**CIVIL COURT
(FAMILY SECTION)**

MR. JUSTICE ANTHONY G. VELLA

Sitting of Wednesday 10th April 2024

Application number : 256 /2023 AGV

In the names;

AS

Vs

**Dr David Bonello and PL
Nicholette Aquilina as Deputy
Curators to represent M K E Z**

The Court;

Having seen the Application of AS dated 3rd November 2023;

Respectfully submits and on oath declares:

1. That the parties were in a relationship, from which relationship one minor child was born, K E Z S on the fourteen of November, two thousand and eighteen (14/11/2018). (Dok A)
2. That their relationship has irremediably broken down and is no longer possible;
3. That the plaintiff has tried numerous times to reach an amicable agreement in the best interest of the minor, however the defendant never took any responsibility for the minor.
4. That the plaintiff does not know where the defendant is.
5. That the plaintiff lives in Malta and is having several problems to register the minor for school and to do other administrative things since the father is not present to give his consent.
6. That the parties have been authorized to proceed at this instance by virtue of a court decree of this Honorable court dated 5th of September 2023 (Dok B)
7. That the facts here declared are known personally by the plaintiff;

For these reasons the plaintiff contends, saving any necessary and opportune decisions, why this Honourable Court should not:

1. To Declare that the mother has the sole care and custody of the minor child
K E Z S .
2. That any decisions relating to the minor child, including those relating to the health, issuing of passports, travel, and education of the minor child should also exclusively given to the mother.
3. Authorises the plaintiff to register the eventual judgment of this Honourable Court in the Public Registry of Malta.

Having seen the reply filed by the curators, in the Maltese language, whereby they stated as follows:

Rat ir-risposta ta' Dr David Bonello noe datata 31 ta' Jannar 2024, fejn il-kuraturi mhumix edotti mill-fatti dikjarati.

Illi l-attrici ghandha tikkonferma bil-gurament taghha l-ahhar darba li kellha kuntatt mal-assenti.

Illi l-istess kuraturi jitolbu li jinghataw indirizz maghruf, indirizz tal-posta elettronika u / jew profil tal-media socjali tal-istess assenti, sabiex huma jkunu f' posizzjoni li jikkomunikaw magghom.

Salv eccezzjonijiet ohra permssibbli skont il-ligi.

Having seen the documents exhibited by the parties.

Having heard all the evidence.

Having seen the acts of these proceedings.

CONSIDERS:

Plaintiff is requesting that she be granted the full care and custody of her son, KE , who was born on the 14 November 2018 out of a relationship she had with defendant M K E. Sadly, this relationship turned out to be a rather tumultuous one, with defendant being very violent towards plaintiff when he was told that she was pregnant with his child. Once their son was born, his attitude did not change, but it actually became worse. Plaintiff had filed police reports on incidents that happened because of his behaviour. She states that he never offered any financial assistance or support, and that she managed to bring up her son all on her own. She is simply requesting the Court that she is granted her son's full care and custody, and that she may apply with the Maltese authorities on her son's behalf for any medical or educational purposes, including for the issuing of a passport, without the need to obtain defendant's signature or written consent.

The facts of the case as explained by plaintiff in her affidavit have not been contradicted by any evidence to the contrary, since his whereabouts remain unknown. The Court may therefore conclude that plaintiff's version of events are in effect proven as facts, and the Court will consider them as such. Moreover, plaintiff also exhibited other documents in support of her testimony, which all the more corroborate her version of events. There are at least two medical certificates showing the extent of injuries she suffered during the incidents with defendant, and a number of photographs also showing the injuries she sustained in these same incidents.

The curators had informed the Court that they could not trace defendant, and that as a result they had no evidence to submit. The Court considers that it is in the child's best interests that plaintiff's pleas are upheld. The Court fully understands the difficulties that single parents encounter in raising a child on their own without the support of the other parent. Plaintiff declares that she never received any form of support from the father. On the contrary, he seems to have done his utmost to cause her to lose the child while she was pregnant.

The Court is convinced that plaintiff deserves all the support she can receive, and consequently her pleas will all be upheld. The Court is also of the opinion that it is in the best interests of the child that plaintiff be authorised to sign any applications or documents with the Maltese authorities for all the child's health and educational needs, without having to obtain the father's prior consent in writing. This should facilitate plaintiff's efforts in raising her child in the best environment possible, since the father has always been absent from the child's life. Therefore, in terms of Article 149 of Chapter 16 of the Laws of Malta, the Court is also going to award this additional plea.

DECIDE:

NOW, THEREFORE, THE COURT:

UPHOLDS PLAINTIFF'S CLAIMS.

1. Declares that Plaintiff, the mother, has the sole care and custody of the minor child K E .
2. Orders that any decisions relating to the minor child, including those relating to the health, issuing of passports, travel, and education of the minor child are also exclusively given to the mother.
3. Authorises Plaintiff to sign any documents and/or applications with the Maltese authorities on behalf of her minor child, K E , without the need to obtain prior consent or signature of the father.
4. Authorises the plaintiff to register the judgment of this Court in the Public Registry of Malta.

All costs are to be borne temporarily by plaintiff, and shall become fully recoverable from defendant, when his whereabouts are established.

Judge

Hon Anthony G Vella

Cettina Gauci- DEP REG