



**CIVIL COURT
(FAMILY SECTION)**

MR. JUSTICE ANTHONY G. VELLA

Sitting of Thursday 10th October 2024

Sworn application number: 145 /2024 AGV

In the names of:

N J K

vs.

Dr Charmaine Cherrett and PL Jean Pierre
Busuttil as deputy curators for GK

The Court;

Having seen the sworn application of N J K dated 17th July 2024;

Respectfully and on oath confirms:

1. That the plaintiff Nicole Jade Koch had a relationship with GK who is a Turkish national, of whom she has no current information regarding where he inhabits or resides;
2. That from this relationship which was abusive in nature, the plaintiff suffered grievous injuries on her person, for which, the defendant was given a prison sentence; following which incident the plaintiff in the best interests of the minor daughter which the parties had together named A K who was born on the 16th June 2022 came to Malta, all with the permission of the German Court; which authorised her to do this; birth certificate Document NK1;
3. That at present, A is an ordinary resident in Malta, and has been here for more than 6 months therefore the plaintiff had to resort before this Court that she may have care and custody over A , as well as be authorised to take all decisions related to travel, education and health of the minor, due to the fact that she does not know the whereabouts of the father of the minor, all in the best interest of the minor herself; due to the fact that without a decree, sentence or order from the Court, the plaintiff has a difficulty to make decisions in the best interest of her daughter;

4. Whoever receives this sworn application against him must present his sworn answer within twenty (20) days from the date of notification, that is from when he receives it. If the sworn answer is not presented in writing as required by law by the time mentioned, the Court will proceed to give the decision according to the law. Therefore it is in the interest of the recipient of this sworn application to speak to a lawyer without delay so that the Court can hear what he has to say in the case.
5. That when the relationship between the parties ended the minor always resided with the plaintiff and was under her care;
6. That now that the plaintiff is in Malta, after various major episodes of domestic violence, which occurred in front of the child, and due to which the defendant had gone to prison; the current situation is one which has caused the plaintiff to live in Malta with her daughter, while providing for her needs all on her own, due to not having any knowledge of where the defendant went to reside after he left the apartment in Germany which she used to rent;
7. That the defendant is a Turkish national;
8. That he no longer makes contact with his daughter;
9. That due to this, curators had to be appointed;

10. That this is why this case had to be filed before this Honorable Court;
11. That the plaintiff has requested and obtained the required authorization to proceed in this stance against the defendant shown in the annexed document marked as Document RB4

THEREFORE, may the respondent say why this Honorable Court should not:

1. Trust within the hands of the plaintiff the exclusive care and custody of the minor AK who was born on the 16th June 2022;
2. Order that the ordinary residence of the minor AK who was born on the 16th June 2022 is to be with her mother the plaintiff;
3. Vest in the minor's mother exclusive parental authority and give her the ability to, without the need for any signatures of the defendant:
 - a. Make decisions with regards to the health of the minor AK born on the 16th June 2022
 - b. Make decisions regarding the education of the minor AK on the 16th June 2022
 - c. Apply for the passport of the minor AK born on the 16th June 2022

- d. Keep within her custody the passport of the minor A K born on the 16th June 2022
- e. Sign any required document where the signature of both parents is required on her own;

This in the best interest of the minor AK , born on the 16th June 2022;

- 4. Orders also that any children allowance and other benefits related to the minor are to be received by the plaintiff;
- 5. Orders that the passport of the minor is to be kept by the plaintiff;
- 6. Give any orders necessary or as this Court deems fit with regards to the minor's travel, the attendance of the minor at school and other activities which are educational in nature as well as those which are extracurricular;

With costs against the defendant.

Having seen the curators' reply, filed in the Maltese language;

Il-Qorti rat ir-risposta tal-Kuraturi deputati pprezentata bil-Lingwa Maltija datata 20 ta' Settembru 2024;

1. Illi l-esponenti ghadhom mhux edotti mill -fatti
2. Illi l-esponenti jirriservaw li jipprezentaw eccezzjonijiet ulterjuri jekk kemm -il darba l-esponenti jirnexxilhom ikunu edotti mill-fatti u jsir kuntatt mal-assenti .
3. Salv eccezzjonijiet ulterjuri
4. Bl-ispejjez

Having heard the evidence submitted by the parties.

Having seen the documents exhibited.

CONSIDERS:

This case concerns the care and custody of a minor child, AK born out of a relationship between plaintiff and defendant GK , a Turkish national who is not present on these islands. Plaintiff wishes to regulate her daughter's care and custody, to be able to apply on her behalf with all the Maltese authorities concerned, without the need for plaintiff to obtain defendant's prior consent in writing.

From the evidence exhibited, particularly from plaintiff's own affidavit, it is evident that defendant has been absent in the child's life. The relationship between plaintiff and defendant was turbulent from the outset. Plaintiff also exhibited a number of documents in support of her claim that

defendant was abusive towards her very early in the relationship. He was violent and abusive, and cheated on plaintiff throughout.

A, was born in June 2022. By this time, defendant had abandoned plaintiff and the child. There were sporadic encounters, with defendant behaving very erratically. Finally, plaintiff broke off the relationship and was allowed by the German court to travel to Malta with her child. Plaintiff has been living here since, and she wishes to regulate the position of her child's care and custody as already outlined earlier.

The Court shall therefore uphold all plaintiff's claims in this regard.

DECIDE:

NOW, THEREFORE, THE COURT;

UPHOLDS PLAINTIFF'S CLAIMS.

Trusts within the hands of the plaintiff the exclusive care and custody of the minor AK who was born on the 16th June 2022;

Orders that the ordinary residence of the minor AK was born on the 16th June 2022 is to be with her mother the plaintiff;

Vests in the minor's mother the exclusive parental authority of the minor, and gives her the ability to, without the need for any signatures of the defendant:

- To take decisions with regards to the health of the minor A K born on the 16th June 2022
- To take decisions regarding the education of the minor AK born on the 16th June 2022
- To apply for the passport of the minor AK , born on the 16th June 2022
- To keep within her custody the passport of the minor AK born on the 16th June 2022
- To sign any required document where the signature of both parents is required on her own;

Orders also that any children's allowance and other benefits related to the minor are to be received by the plaintiff;

Orders that the passport of the minor is to be kept by the plaintiff;

Authorises plaintiff to make all the necessary arrangements with regards to the minor's travel, the attendance of the minor at school, and other activities which are educational in nature as well as those

which are extracurricular, without having to obtain the prior consent of defendant.

All costs are to be borne temporarily by plaintiff, and shall be recoverable in full from defendant, once his whereabouts are determined.

Judge

Hon Anthony G Vella

Cettina Gauci – DEP REG