

Kopja Informali ta' Sentenza



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

**ONOR. IMHALLEF
ROBERT MANGION**

Seduta ta' l-10 ta' Lulju, 2012

Citazzjoni Numru. 436/2010

Number on list: 35

**A W
vs
T N in his capacity as curator
to represent the interests of his absent daughter B P
W**

The Court,

Having seen plaintiff's application filed on the 16th
December 2010.

Having seen defendant's reply filed on the 1st February
2011.

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Having ordered during the sitting of the 1st March 2011 that the proceedings be conducted in the English language.

Having examined all the evidence produced in the court file in particular the testimony of the natural parents.

Considers.

The parties had entered a consensual separation contract on the 1st of November 2005 where care and custody of the minor daughter Rachel was entrusted to the mother, defendant in these proceedings. The father, plaintiff in the present proceedings, had access rights to be agreed from time to time with the mother.

The mother has in the meantime moved abroad and established another family while the father returned to the United Kingdom.

The minor daughter has spent these last years living in three separate countries ie. in United Arab Emirates with her mother, in the United Kingdom with her father and in Malta with her father and with her maternal grandparents. Since September 2011 to date Rachel has been living with her maternal grandparents here in Malta who have provided for all her needs.

On the 6th June 2012 the parties filed a joint application together with a signed agreement of same date and requested that it be incorporated in a court judgment.

Having examined said agreement signed by the representatives of plaintiff and defendant as well as by the maternal grandparents, it results that agreement has been reached that care and custody of the minor child be awarded to the maternal grandparents who are ready to provide full material and moral support to the minor child.

Having considered that in the particular circumstances of this case, such an arrangement is in the Court's opinion, in the best interest of the minor child.

Having considered that according to Article 56 of the Civil Code the Court may entrust care and custody *in loco parentis* of a minor child to third parties other than the natural parents, if it is in the child's best interest.

For these reasons the Court decides plaintiff's application and defendants' reply as follows:-

1. The care and custody of the minor Rachel W who was born on the 14th October 1996 is being entrusted exclusively to the maternal grandparents, T N (ID no 49250M) and his wife Margaret N (ID no 383573M).

2. Spouses T and Margaret N are authorized to apply to the competent authorities for the issue of the passport of Rachel W. Said application need not have the signature of the parents of Rachel W. Once issued, said passport is to be kept by spouses N until Rachel reaches the age of eighteen years.

3. Since according to the agreement mentioned above spouses N have agreed to provide for the material needs of the minor child, and considering the respective present financial situation of the natural parents, no order regarding maintenance for the minor child is being issued in this judgment, however this without prejudice to any future order if the need arises in the best interest of the child.

4. Spouses N may go abroad accompanied by the minor child Rachel W who is also authorized to go abroad on trips organized by her school or on other trips authorized by spouses N.

5. Plaintiff A W is entitled to visitation rights of his minor daughter on condition that he gives the minor and spouses N a minimum of twenty four hours notice always subject to Rachel's requirements.

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6. Defendant B P W is entitled to visitation rights of her minor daughter as agreed from time to time with spouses N.

7. Children's allowance and any other form of benefit payable by the Government in respect of Rachel W shall be received by spouses N.

8. The terms and conditions of the consensual separation contract mentioned above, in particular the terms regarding care and custody of Rachel, maintenance and visitation rights are being amended to reflect today's judgment.

Each party to bear its own costs.

< Sentenza Finali >

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