



**CIVIL COURT  
(FAMILY SECTION)**

**MR. JUSTICE ANTHONY G. VELLA**

**Sitting of Wednesday 11th January 2023**

**APPLICATION number : 287/2021 AGV**

**In the names;**

**AAF**

**Vs**

**Dr. Joseph P Bonnici and PL Nadine Farrugia as Curators to represent  
the absent F A as per decree dated 10th August 2022.**

**The Court ;**

**Having seen the SWORN APPLICATION of A A F dated 2nd December 2021;**

**Respectfully submits and under oath confirms that:**

1. This application, is being filed contextually with a separate application in terms of Article 930 of Chapter 12 of the Laws of Malta.
2. From a traditional marriage between the applicant and FA three children were born, namely MAA who was born in the year two thousand and seven (2007), ZA who was born in the year two thousand and nine (2009) and Y A was born in two thousand and fourteen (2014) and who are fourteen (14), twelve (12) and seven (7) years respectively;
3. The applicant arrived in Malta on 20 July 2014 and lives and works in Malta. The respondent left Malta in the year two thousand and sixteen (2016) together with the minors Z and Y and the applicant has no information on the whereabouts of the respondent.
4. The minor MAA resides with the applicant father and is entirely dependent on the applicant father himself.
5. By decree dated 7 October 2021, the applicant was authorized to proceed with a sworn application in accordance with Article 930 of Chapter 12 of the Laws of Malta. (*true copy attached and marked Doc F*)

**The applicant therefore humbly asks that this Honorable Court:**

- i. Appoints Deputy Curators in terms of Art 930 of Chapter 12 of the Laws of Malta to represent a defendant who is absent from Malta.
- ii. Declare in a definitive manner that the minor MAA resides with the applicant father and orders that any state assistance for the said minor be payable solely to the applicant with the exclusion of the respondent mother.
- iii. Orders that the applicant father be entrusted with the sole care and custody of the minor child MAA
- iv. Declare that the applicant father does not need the signature of FA or any other person in order to apply for and renew the passport, identity card and residence card of the minor MAA
- v. Orders that any applications and renewals of residential permits, identity cards, and passports of the minor MAA be signed only by the applicant's father to the exclusion of the respondent.

**With costs.**

**Il-Qorti ;**

**Rat ir-risposta guramentata tal-Avukat Dottor Joseph P Bonnici  
datata 26 ta' Settembru 2022 ;**

1. Illi l-esponenti mhux edott mill-fatti u jirriservaw minn issa li jirrispondi b' mod aktar estensiv hekk kif jigu moghtija l-informazzjoni rikjesta u relattiva.
2. Illi minghajr pregudizzju ghas-suespost, ir-rikorrenti irid jipprova illi huwa verament missier il-minuri indikat.
3. Illi minghajr pregudizzju ghas-suespost, ir-rikorrenti jrid jipprova u jikkonferma bil-gurament tieghu li ilu de facto separat mill- assenti kemm bhala prova minnu u jew terzi viva voce kif ukoll bhala prova dokumentarja minn dawk l-istituzzjoniet necessarji sabiex jivverfikaw l-allegat assenza ;
4. Illi minghajr pregudizzju ghas-suespost ir-rikorrenti jrid jippruvaw li jaghmel l-amlu tieghu sabiex jinnotifika li l-istess intimata assenti bil-proceduri stipulati skont illi inkluz il-Kap. 12 tal-Ligijet ta' Malta.
5. Illi minghajr pregdizzju ghas-suespost, ir-rikorrenti ukoll jrid jipprova illi l-allegat assenti mara mhux verament prezenti f' Malta u li telqet lura lejn pajjizha jew pajjiz iehor b' li mod u manjiera ta' abbandun ghal ragunijiet mhux imputabbli lilha.
6. Illi in oltre jigi pruvat liz-zwieg taghhom kien validu ghal effetti u finijiet kollha ta 'Ligi nostrani.
7. Salv eccezzjonijiet ultejuri.

Having seen the documents exhibited.

Having heard all the evidence.

Having seen all the acts of the proceedings.

### **CONSIDERS:**

This case concerns the care and custody of a minor child, MAA by his father, the plaintiff in this case, as the mother is absent from the life of the child. The facts

of the case are as follows. Plaintiff had fled from his country of origin, Chad, together with his wife and three children, and had obtained refugee status here in Malta. The wife, however, left Malta in 2016 with the younger two children, leaving plaintiff and the eldest son. Plaintiff is now trying to obtain sole care and custody of his son, in order to be able to apply for the child's exams and sign all the necessary documentation necessary in this regard.

The Court does not have the version of events from defendant's side, as she was not residing in Malta anymore, and her current location is unknown. The curator in fact was unable to make contact with her to obtain her testimony. The Court has plaintiff's statement, and this is being taken as proven at law. Plaintiff is maintaining that he is the sole carer of his eldest son, and that he needs the Court's authorisation to sign all the documents and apply for his son's behalf in the 'O' Level exams due to be held in Summer. He is also requesting that he apply for his son's passport and ID card and the e-ID needed for the said exams.

The Court understands that these are all necessary in the child's education and sees no reason to withhold these requests. Given that the mother is completely absent from these islands and given that it is in the best interests of the child for him to further his education, the Court shall be upholding plaintiff's requests.

## **DECIDE:**

Now, therefore, the Court:

Upholds plaintiff's first demand and declares in a definitive manner that the minor MAA resides with the applicant father and orders that any state assistance for the said minor be payable solely to the applicant with the exclusion of the respondent mother.

Upholds plaintiff's second demand and orders that the applicant father be entrusted with the sole care and custody of the minor child MAA

Upholds plaintiff's third demand and declares that the applicant father does not need the signature of FA or any other person in order to apply for and renew the passport, identity card and residence card of the minor MAA.

Upholds plaintiff's fourth demand and orders that any applications and renewals of residential permits, identity cards, and passports of the minor MAA be signed only by the applicant's father to the exclusion of the respondent.

All costs are to be borne temporarily by plaintiff, until such time as defendant's whereabouts be established, when they shall become fully recoverable from defendant.

**Judge**

**Hon Anthony G Vella**

**Cettina Gauci- Dep Reg**