



**CIVIL COURT
(FAMILY COURT)**

MR. JUSTICE HON. ANTHONY G. VELLA

Sitting of Thursday 12th January 2023

Application number; 42 /2022 AGV

PN gia B

Vs

**Dr Leontine Calleja and LP
Vernonica Rossignaud who
by the decree dated 20th
September 2019 have been
appointed to represent the
absent JP**

The Court;

Having seen the Sworn application of PN gia B

Respectfully submits and confirms under oath, dated 17th February 2022:

That the applicant had a relationship with the defendant JP and from this relationship on the first (1st) of November 2012 the minor SP and this as it results from the birth certificate hereby attached and marked as 'Doc A';

That the relationship between the parties fell apart and therefore in the year two thousand and sixteen (2016) they agreed not to split up. Since then, the father has barely been involved in the child's life, so much so that based solely on his own decision, he has not seen a minor for more than three years. (3) years, with the exception of a few video calls. In addition, he has little to no contact with the child;

That during these video calls the father's behaviour towards both the applicant and their minor daughter is often disrespectful and verbally abusive. This has always been the father's behaviour even at a time when the applicant and the respondent had lived together with their minor daughter in the United Kingdom;

That notwithstanding this, the applicant never stopped the father from having contact or seeing his daughter, but rather always urged him to be a part of their daughter's life, and this in the best interests of the child;

That currently the care and custody of the child is joint between the parties but due to the fact that the father lives abroad and has little contact with the child, every time the applicant needs to fill in some forms related to the child such as

health or education, the applicant must always chase the father and try to get in touch with him in order to obtain his written consent. This is causing great inconvenience and is causing unnecessary problems in the lives of the applicant. That therefore the applicant feels that it would be in the best interest of the child that the care and custody of the minor be entrusted to her with regulated access to the defendant;

That in addition, notwithstanding the fact that according to the law the defendant has the obligation to support according to his means his minor daughter, the defendant never paid maintenance except for some months during the mediation process and is currently not is paying any maintenance;

That as it appears from the list attached here and marked as '**Doc B**' the monthly expenses of the minor amount to a total of six hundred Euros (€ 600);

That the applicant wishes to regulate definitively the care and custody, access as well as the maintenance of the child;

That despite attempts to reach an amicable agreement even through the mediation process, no agreement was reached and therefore the mediation had to be closed;

That the applicant has been duly authorized by this Honorable Court to proceed with this case and this by a decree given by this same Court dated the sixth (6) of December 2021 annexed hereto and marked as '**Doc C**';

That the applicant wishes that her position regarding the care and custody, access as well as maintenance of the same child be regulated even pending litigation and this due to the urgent nature of these issues and also to protect her rights as well

as her daughter. Therefore, simultaneously with this application, the applicant is also filing an application to regulate such matters *pendente lite*;

That the applicant is aware of these facts personally;

For these reasons, the plaintiff is humbly requesting this Honorable Court to:

1. Order that the care and custody of the child SP be entrusted exclusively to the child's mother (the applicant);
2. Grant virtual access to the defendant at such times and days as may be fixed by this Honorable Court as well as supervised physical access under such conditions as this Court may deem appropriate in the best interests of the child;
3. Establish that the maintenance of three hundred euros (€ 300) per month (representing half of the costs of health, education and extra-curricular activities) is due by the defendant for the upbringing of his daughter and order the defendant to pay this amount;
4. Order the defendant to pay all arrears of maintenance which the defendant has failed to pay over the years;
5. Grant any right allowed by law to the applicant and this to the advantage and in the best interest of the child;
6. Take all such other measures as this Honorable Court may deem fit in the best interest of the child;

and this without prejudice to any other provision which this Honorable Court may deem fit and opportune.

With costs including those of all the proceedings incurred by the applicant against the defendant, who is hereby being summoned under oath.

Having seen the Sworn Reply of Dr. Leontine Calleja holder of Id no: 272169M and and LP Veronica Rossignaud as curators for the absent J P dated 8th March 2022;

Humbly submit:

1. That primarily the plaintiff declared that despite attempts to reach an amicable agreement through mediation 52/21, mediation was closed on the 6th December 2021 however the case was filed on the 17th February 2022, which is beyond the time allowed by law to file the case after mediation is closed and therefore the application is null and void;
2. that without prejudice to the above, there is no valid reason why the Child should be entrusted solely to the mother and defendant should have supervised physical access;

3. that the amount declared as monthly expenses are exaggerated especially those related to extra curriculum activities and school fees;
4. that the Curators are not aware of the facts and reserve their right to present any further pleas if necessary.

With expenses

Having heard all the evidence submitted by the parties.

Having seen all the documents exhibited.

Having heard the submissions made by the parties.

CONSIDERS:

The case concerns the request for full care and custody of a minor child, SP and for a maintenance order requested by the child's mother against the father, as well as arrears in such maintenance. The facts of the case are, in brief, as follows. Plaintiff had been in a relationship with defendant, JP, since 2009, out of which relationship there was born S on the 1 November 2012. The relationship ended in 2015 and the parties went their separate ways. Plaintiff has since relocated to Malta and has also married, and through these proceedings she is seeking to regulate matters regarding her ten-year old daughter with the father.

From the evidence submitted by plaintiff, which evidence has not been in any way contradicted by defendant, it appears that the father has been very absent in the life of the child. Repeated requests for assistance, financial and otherwise, have either been ignored by him or only entertained in part, leaving the mother with no option but to institute these proceedings. Plaintiff explained how the relationship turned sour and ended, and how she first moved to London from Essex in 2018, after she had graduated from nursing school, and subsequently moving permanently to Malta a year later in June 2019. Plaintiff is now married, has stable employment, and the child is regularly attending St Michael's School. She is requesting that defendant pays his share of maintenance in S's upbringing, that defendant also pay the arrears due in maintenance, and that she be awarded full care and custody rights over the child in order to be able to take care of her health and educational need as these arise from time to time without the need of obtaining defendant's prior consent. Plaintiff explained that it was becoming very difficult to take any decision regarding S's educational and health needs, as defendant never responded to her requests, resulting in severe delays in enrolling S in a school, as well as other such examples.

Although defendant did not submit any evidence or proof whatsoever, he seems to imply that plaintiff left London and came to Malta without his consent. However, no evidence was brought forward by him, either on this matter or on any other matter in this case. Indeed, defendant didn't even file a request for access to be granted to him and his child. Nonetheless, plaintiff had requested that this Court sets specific times for access to be exercised, and for this reason the Court is authorising defendant to exercise virtual access once a week for one hour, given that he resides in another country. In the event that defendant is here in Malta, he is authorised to exercise access once a week for two hours, under the supervision of social workers with the Directorate for Child Protection. Such

access would have to be agreed to prior to his visit, and defendant shall make the necessary arrangements with the social workers to this end. This supervised access is being ordered to help the child build a relationship with her father. Once such relationship is established, the access will change to one that is monitored by the Directorate, upon a recommendation made by the same Directorate to that effect.

Plaintiff is also claiming arrears in payment of maintenance. In her testimony she explained that these arrears had amounted to €6,000.00 up to the time when the parties were in mediation proceedings, that is up to December 2021. After that, there are arrears for a whole year. As from March 2022, this Court had set maintenance in the amount of €300 per month. Prior to that, plaintiff states that the parties had been discussing during mediation proceedings that maintenance would be agreed to in the amount of €250 per month. Therefore, for the year 2022, the arrears in maintenance are €3,500.00, being €500 for January and February, and €3,000 for the remaining ten months. This brings a **total of €9,500.00** in arrears due by defendant for maintenance for S.

DECIDE:

For these reasons, therefore, the Court;

UPHOLDS Plaintiff's requests.

1. Orders that the care and custody of the child SP be entrusted exclusively to the child's mother (the applicant);

2. Grants virtual access to the defendant once a week for a maximum time of one hour, as well as supervised physical access once a week for two hours, if and when defendant visits Malta;
3. Establishes the maintenance due by the defendant for the upbringing of his daughter in the sum of three hundred euros (€300) per month, which includes defendant's share of half of the costs of health, education and extra-curricular activities for the minor child, and orders the defendant to pay this amount;
4. Orders the defendant to pay all arrears of maintenance which the defendant has failed to pay over the years, as outlined in the judgment, amounting to a total of €9,500.00;

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

Hon. Anthony G. Vella

Judge

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