



2023/KER/80740

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

THURSDAY, THE 14TH DAY OF DECEMBER 2023 / 23RD AGRAHAYANA, 1945

WP(CRL.) NO.1206 OF 2022

PETITIONER/S:

`X`

BY ADVS.

JOHNSON GOMEZ

S.BIJU (KIZHAKKANELA)

SANJAY JOHNSON

JOHN GOMEZ

ARUN JOHNY

RESPONDENTS:

- 1 UNION OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT, MINISTRY OF EXTERNAL AFFAIRS, SOUTH BLOCK, NEW DELHI, PIN - 110001.
- 2 THE AMBASSADOR, EMBASSY OF INDIA, ABU DHABI UAE, PLOT NO.10, SECTOR W-59/02, DIPLOMATIC AREA EMBASSIES DISTRICT - UNITED ARAB EMIRATES.
- 3 STATE POLICE CHIEF, KERALA POLICE HEADQUARTERS, VAZHUTHAKKAD, THIRUVANANTHAPURAM, PIN - 695010.
- 4 THE DISTRICT POLICE CHIEF, OFFICE OF THE DISTRICT POLICE HEADQUARTERS, PATHANAMTHITTA, PIN - 689645.
- 5 STATION HOUSE OFFICER, KOIPURAM POLICE STATION, PATHANAMTHITTA, PIN - 689548.



W.P. (Cr1) .No.1206/2022 & W.P. (C) .No.42320/2022

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WP (CRL.) NO.1206 OF 2022

6 THE CHAIRPERSON, LOCAL LEVEL COMMITTEE,
CONSTITUTED UNDER THE NATIONAL TRUST FOR WELFARE OF
PERSONS WITH AUTISM, CEREBRAL PALSY, MENTAL
RETARDATION AND MULTIPLE DISABILITIES ACT, 1999,
PATHANAMTHITTA, COLLECTORATE OFFICE, PATHANAMTHITTA
DISTRICT, KERALA, PIN - 689645.

7 'Y'

8 XXXXX XXXXX XXXXX.

9 XXXXX XXXXX XXXXX

BY ADVS.MANU S., DSG OF INDIA

N.M.MADHU

C.S.RAJANI (K/2275/1999)

SHRI.K.S.PRENJITH KUMAR, CGC

BY GOVERNMENT PLEADER, SRI.P.M.SHAMEER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18.10.2023,
ALONG WITH WP(C) .42320/2022, THE COURT ON 14.12.2023 DELIVERED THE
FOLLOWING:



2023/KER/80740

W.P. (Cr1) .No.1206/2022 & W.P. (C) .No.42320/2022

-:3:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

THURSDAY, THE 14TH DAY OF DECEMBER 2023 / 23RD AGRAHAYANA, 1945

WP (C) NO.42320 OF 2022

PETITIONER:

'X'

BY ADVS.
JOHNSON GOMEZ
S.BIJU (KIZHAKKANELA)
SANJAY JOHNSON
JOHN GOMEZ
ARUN JOHNY
ANN MARIA SEBASTIAN

RESPONDENTS:

- 1 UNION OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT, MINISTRY OF EXTERNAL AFFAIRS, SOUTH BLOCK, NEW DELHI, PIN - 110001.
- 2 THE AMBASSADOR, EMBASSY OF INDIA, ABU DHABI UAE, PLOT NO.10, SECTOR W-59/02, DIPLOMATIC AREA EMBASSIES DISTRICT - UNITED ARAB EMIRATES.



W.P. (Cr1) .No.1206/2022 & W.P. (C) .No.42320/2022

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WP(C) NO.42320 OF 2022

3 THE CHAIRPERSON, LOCAL LEVEL COMMITTEE, CONSTITUTED
UNDER THE NATIONAL TRUST FOR WELFARE OF PERSONS WITH
AUTISM, CEREBRAL PALSY, MENTAL RETARDATION AND
MULTIPLE DISABILITIES ACT, 1999, PATHANAMTHITTA,
COLLECTORATE OFFICE, PATHANAMTHITTA DISTRICT, KERALA,
PIN - 689645.

4 'Y'
5 XXXXX XXXXX XXXXX
6 XXXXX XXXXX XXXXX

BY ADVS.
SRI.MANU S., DSG OF INDIA
SRI.N.M.MADHU
SRI. C.S.RAJANI (K/2275/1999)
SHI.K.S.PRENJITH KUMAR, CGC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/10/2023,
ALONG WITH WP(Cr1.)NO.1206/2022, THE COURT ON 14/12/2023 DELIVERED
THE FOLLOWING:



2023/KER/80740

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A.MUHAMED MUSTAQUE & SOPHY THOMAS, JJ.

W.P.(Cr1).No.1206/2022

&

W.P.(C).No.42320/2022

“C.R.”

Dated this the 14th day of December, 2023

J U D G M E N T

A.Muhamed Mustaque, J.

These writ petitions are filed by the mother of **xxxxxx(*)** (hereinafter referred to as the “incapable adult”) who is suffering from autism spectrum disorder. W.P.(Cr1).No.1206/2022 was filed for issuance of a writ of habeas to produce the aforesaid incapable adult before this Court. It proceeds on an allegation that the incapable adult has been detained in illegal custody of his father against his wish and will in Dubai. W.P.(C). No.42320/2022 was filed challenging an order of the District Collector, Pathanamthitta, who is the Chairman of the Local Level Committee constituted under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple



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Disabilities Act, 1999 (for short the “National Trust Act”), declining the request made by the petitioner to appoint her as the legal guardian of the incapable adult.

FACTS OF THE CASE:

2. The petitioner married 'Y' (*) on 2/2/1998 in accordance with Christian personal law. In that wedlock, two male children were born. The elder child has now crossed the age of 21 years. The younger incapable adult was born on 31/1/2003. The parties were in Dubai, UAE. It seems that the incapable adult was diagnosed with pervasive developmental disorder when he was two and half years old. He was treated at NIMHANS, Bangalore. Finally, he was diagnosed with autism spectrum disorder. The incapable adult, xxxxx(*) was in the company of both his parents. Though it is stated that the married life of the petitioner and husband was not happy from the initial phase of marital life itself; as seen from various records, treatments were given to the incapable adult and he was brought up in a family environment. The matrimonial dispute never ended. The petitioner claims that she was forced to travel back to India as she was subjected to domestic violence, and she came back to India based on the orders passed by this Court to



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obtain the passport from her estranged husband with the intervention of the Indian Consulate. The petitioner approached the District Collector, Pathanamthitta, to appoint her as a legal guardian under the National Trust Act on 9/11/2021. Since it was not considered, the petitioner approached this Court in W.P.(C).No.23474/2021. The said writ petition was disposed of on 15/9/2022 directing the District Collector, Pathanamthitta, to take a decision on the application filed by the petitioner to appoint her as the legal guardian. This was considered by the District Collector and on 29/9/2022 an order was passed rejecting her request for the reason that the incapable adult is living in UAE and holding that the National Trust Act cannot be applied beyond the territorial jurisdiction of this country. While holding so, the District Collector appreciated the requirement of the petitioner-mother to be the legal guardian of the incapable adult. The petitioner, thereafter, filed W.P.(Cr1).No.1206/2022 for issuance of a writ of habeas on 5/12/2022 alleging that the incapable adult is in the illegal custody of his father. She filed the other writ petition challenging the order of the District Collector, on 21/12/2022. Various orders were also passed by



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this Court on 18/1/2023 and 23/12/2022 to allow interaction with the incapable adult.

3. Taking note of the fact that this Court will have to decide on a jurisdictional issue intertwined with the welfare of the autistic person who is an international person and, currently a resident of another foreign country, UAE, we appointed Adv.Anil Malhotra, a Chandigarh-based lawyer to assist us. At the outset, we must state that his assistance in this matter was immense. The notes of submission made by him, based on research by Adv. Ankit Malhotra gave insight into the law on the matter. We also heard Shri Johnson Gomez, learned counsel for the petitioner and Shri N.M.Madhu, learned counsel for the respondent.

THE MAIN SUBMISSIONS OF THE COUNSEL FOR THE PARTIES:

4. The learned counsel Adv.Johnson Gomez for the petitioner submitted that when the father of the incapable adult is acting against that son, it has to be presumed that the incapable adult is in illegal custody. According to him, medical intervention alone would not be sufficient to protect the welfare of the incapable adult and the incapable adult is having every right to be in the company of his mother. Thus, the denial of the father of the incapable adult, not allowing the



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mother to be in the company of the incapable adult warrants interference through the constitutional courts.

5. Whereas, the learned counsel for the father of the incapable adult, namely, Shri N.M.Madhu argued that the incapable adult is comfortable with the father. It is submitted that the cruel and irresponsible behaviour of the petitioner to the incapable adult, as well as to his father resulted in matrimonial disputes. He pointed out various instances of the cruel behaviour of the petitioner. It is further argued that the petitioner abandoned the family and the incapable adult. According to him, any presence of the petitioner in Dubai would alter the comfortable environment enjoyed by the incapable adult. The learned counsel also submitted that when the father is competent and capable of taking care of the incapable adult, and as no adverse circumstances exist to protect the welfare of the incapable adult, this Court need not invoke extraordinary jurisdiction. The learned counsel elaborating the arguments submitted that, this Court has no jurisdiction to grant any relief invoking writ remedy.

6. The learned Amicus Curiae appeared online and elaborated submissions based on the United Nations Convention on the Rights of the



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Child (UNCRC), Juvenile Justice (Care and Protection of Children) Act, 2015, United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the Rights of Persons with Disabilities Act, 2016 and also with reference to the relevant provisions of National Trust Act. He also requested this Court to make an amicable settlement of disputes between parties through mediation. The learned Amicus Curiae specifically addressed the question on jurisdiction and submitted that the constitutional courts have jurisdiction to protect the welfare of its citizens even in a foreign country.

WE FIND THE FOLLOWING POINTS ARISE FOR CONSIDERATION IN THE MATTER:

7(i). Whether Courts in India have jurisdiction to issue any writ to protect the welfare of its citizens beyond the territorial jurisdiction of the country.

7(ii). In the circumstances of this case, whether the petitioner is entitled to any relief in this matter.

JURISDICTION:

8. Jurisdiction in this matter has to be decided with reference to the role of the State or the Court having responsibility for the



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citizens of this country wherever they are, including extraterritorial jurisdiction of the country. The children or incapable adults are deemed to be vulnerable because of their incompetency to make decisions and to protect their person or property. The origin of “parens patriae” jurisdiction is traceable to the common law and the State has to act as a substitute parent to protect the interest of the children or incapable adults. On the advent of the Constitution, the State's power to further the legitimate interest of its citizens, who are unable to care for themselves is well recognized in its preamble and fundamental rights. See the judgment of the Apex Court in *Charan Lal Sahu v. Union of India*, [(1990) 1 SCC 613]; para.35 therein reads as follows:

35. There is the concept known both in this country and abroad, called *parens patriae*. Dr B.K. Mukherjea in his “*Hindu Law of Religious and Charitable Trust*”, Tagore Law Lectures, Fifth Edition, at page 404, referring to the concept of *parens patriae*, has noted that in English law, the Crown as *parens patriae* is the constitutional protector of all property subject to charitable trusts, such trusts being essentially matters of public concern. Thus the position is that according to Indian concept *parens patriae* doctrine recognized King as the protector of all citizens and as parent. In *Budhkaran Chaukhani v. Thakur Prosad Shah* [AIR 1942 Cal 331 : 46 CWN 425] the position was explained by the Calcutta High Court at page 318 of the report. The same position was reiterated by the said High Court in *Banku Behary Mondal v. Banku Behary Hazra* [AIR



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1943 Cal 203 : 47 CWN 89] at page 205 of the report. The position was further elaborated and explained by the Madras High Court in *Medai Dalavoi T. Kumaraswami Mudaliar v. Medai Dalavoi Rajammal* [AIR 1957 Mad 563 : (1957) 2 MLJ 211] at page 567 of the report. This Court also recognized the concept of *parens patriae* relying on the observations of Dr Mukherjea aforesaid in *Ram Saroop v. S.P. Sahi* [1959 Supp 2 SCR 583 : AIR 1959 SC 951] at pages 598 and 599. In the “*Words and Phrases*” Permanent Edition, Vol. 33 at page 99, it is stated that *parens patriae* is the inherent power and authority of a legislature to provide protection to the person and property of persons *non sui juris*, such as minor, insane, and incompetent persons, but the words *parens patriae* meaning thereby ‘the father of the country’, were applied originally to the King and are used to designate the State referring to its sovereign power of guardianship over persons under disability. (emphasis supplied) *Parens patriae* jurisdiction, it has been explained, is the right of the sovereign and imposes a duty on sovereign, in public interest, to protect persons under disability who have no rightful protector. The connotation of the term *parens patriae* differs from country to country, for instance, in England it is the King, in America it is the people, etc. The Government is within its duty to protect and to control persons under disability. Conceptually, the *parens patriae* theory is the obligation of the State to protect and takes into custody the rights and the privileges of its citizens for discharging its obligations. Our Constitution makes it imperative for the State to secure to all its citizens the rights guaranteed by the Constitution and where the citizens are not in a position to assert and secure their rights, the State must come into picture and protect and fight for the rights of the citizens. The Preamble to the Constitution, read with the Directive Principles, Articles 38, 39



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and 39-A enjoin the State to take up these responsibilities. It is the protective measure to which the social welfare state is committed. It is necessary for the State to ensure the fundamental rights in conjunction with the Directive Principles of State Policy to effectively discharge its obligation and for this purpose, if necessary, to deprive some rights and privileges of the individual victims or their heirs to protect their rights better and secure these further.

9. In **State of Kerala v. N.M. Thomas [(1976) 2 SCC 310]**, the Apex Court opined that the Court also comes within the meaning of State under Article 12 of the Constitution. In that sense, the State as well as the Court are bound to protect the best interest of its citizens, who are incapable of making decisions themselves. The State or the Court in that process, assumes the role of a parent, who otherwise would have been competent to make a decision. In a matrimonial dispute affecting a child or an incapable adult, the scope of enquiry is not on the rights and duties of such disputants, but on the best interest or welfare of the subject of such dispute. In that sense, this Court is called upon in these matters to protect the interest of the incapable adult who is living abroad (in UAE). There are different theories on jurisdiction. Jurisdiction in itself encompasses the power to adjudicate and the power to enforce. The Court while giving relief must be in a position to



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adjudicate and also in a position to enforce. In International Law, the concept of jurisdiction is approached through various theories, and the nationality principle is one such perspective. According to the nationality principle of jurisdiction, “States possess an undisputed right to extend the application of their laws to citizens (that is those who have the nationality of the state), wherever they may be. This type of jurisdiction has a longer history than jurisdiction based upon the territorial principle. Rulers asserted jurisdiction over those who owed allegiance to them even before the ruler's control over their land territory was consolidated to the point where they could be said to assert territorial jurisdiction”¹. This nationality principle is also incorporated specifically into our domestic law. Under the Indian Penal Code (IPC), a sovereign State is entitled to regulate the conduct of its citizens beyond the territorial jurisdiction of India. Sections 3 and 4 of IPC address the extraterritorial jurisdiction of our country.

10. According to Section 3 of IPC, any person liable, by any Indian law, to be tried for an offence committed beyond India shall be dealt with according to the provisions of this Code for any act committed

¹ Malcolm D.Evans, *International Law*, First Edition (2003), Oxford University Press, Page No.339



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beyond India in the same manner as if such act had been committed within India.

11. Likewise, Section 75 of the Information Technology Act (IT ACT) also incorporates provisions for extraterritorial jurisdiction. Section 75 of the IT Act stipulates that the provisions of the IT Act apply to offences committed outside India by any person, irrespective of their nationality. This provision is based on nationality principle as well as protective principle of jurisdiction.

12. In the matter of protecting the best interest of the child, or the welfare of the incapable adult, the parens patriae rule would apply and, on the same premise, the nationality principle would also apply. This is based on the principles emanating from the statutory provisions casting an obligation on the State to protect the best interest of a child or the welfare of an incapable adult, as arising from the obligations under the various United Nations Conventions made into law such as, the Rights of Persons with Disabilities Act, the National Trust Act etc. The UN conventions and these statutory provisions place an obligation on the State to ensure that the persons with disability enjoy the right to equality and community life equally with



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others. The preamble of the Rights of Persons with Disabilities Act and the National Trust Act mentions that the enactment itself is to provide protective and welfare measures to disabled persons and persons suffering from mental disability. Since the *parens patriae* rule has to be read into the statutory provision based on nationality principle, the State is bound to take such measures as provided under the Rights of Persons with Disabilities Act and the National Trust Act. If the provisions under the Rights of Persons with Disabilities Act and the National Trust Act are not read to put onus on the State to protect 'persons' covered under the respective enactments, the very object of the law will be defeated. Law on State responsibility to protect its subjects obliges the State to act not only within territorial limits but also beyond its territory. It is to be emphasized that these laws are premised to honour human rights, social security and welfare principles having universal value.

13. The learned Amicus Curiae, pointing out the role of the State and the Court, argued that the Courts in India are bound to protect the rights of citizens, if the State fails to perform its duty. He placed reliance on the judgment of the Apex Court in *Gaurav Kumar Bansal v.*



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Union of India, [(2015) 2 SCC 130] wherein at para.9 it is held as follows:

9. This Court is assigned the role of *sentinel on the qui vive* for protection of rights of citizens and steps in, in exercise of power of judicial review for protection of fundamental rights of the citizens, if the State fails to perform its duty. At the same time, this Court cannot assume the role of the executive to oversee the sensitive issue of coordination with international agencies and bodies for securing release of Indian citizens who are held hostages abroad, when it is shown that the departments of the Government have not only taken cognizance of the problem but also taken, in right earnest, whatever steps could be possible. The issue of coordination at international level with foreign countries and international bodies has to be left to the wisdom of experts in the Government. It is not a case where the State has not shown any concern for its citizens, but where unfortunate situation has come about in spite of serious efforts. Handling of the situation requires expertise and continuous efforts. It has not been pointed out as to what particular direction can be issued in the circumstances. While safety and protection of the lives and liberty of Indian citizens is also the concern of this Court, the issue has to be dealt with at the level of the executive. From the affidavit filed on behalf of the Union of India, it is evident that steps have been taken at various levels, though without complete success.

14. We already noted that this Court is now stepping into the shoes of a parent, to protect the best interest and welfare of an



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incapable adult who is an Indian citizen. It cannot be said that this Court has no power to adjudicate.

15. India and UAE entered into a bilateral agreement on 25/10/1999 for judicial co-operation in civil and commercial matters for service of summons, judicial documents, commission, execution of judgments, arbitral awards, etc. It is pursuant to such agreement that the Central Government issued a notification dated 17/01/2020. This agreement recognizes the execution of the decree of both the countries as though it is a domestic decree. The notification issued by the Central Government dated 17/01/2020 is a declaratory notification.

16. This Court invoking writ jurisdiction is capable of passing further orders to ensure compliance with the order as the State continues to have control over its citizens who are living abroad, even if there is no such bilateral agreement with the country where such citizens reside. However, the Court should be circumspect to exercise jurisdiction when the Court finds that the law of the foreign country can be invoked to protect the welfare or best interest of the child or incapable adult. There may be different circumstances related to the cases. If parties are ordinarily residing in a foreign country and can avail legal remedy



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in that foreign country, the courts in India shall not invoke such jurisdiction to regulate the affairs of its citizens living beyond territorial jurisdiction of the country. The Court steps into the shoes of a parent invoking *parens patriae* jurisdiction, only in those circumstances where the Court forms an opinion that jurisdiction of the foreign country cannot be availed by the party concerned, due to lack of laws or incapability of having legal remedy, or if one party is deprived of availing legal remedy due to issues of domicile or residuary rights. When an efficacious alternate remedy is available, the Court shall refrain from invoking its jurisdiction over the affairs of its citizens who are living outside its territorial jurisdiction.

17. In conclusion, we hold that the Courts in India have jurisdiction in the matter of protecting the best interest or welfare of a child or an incapable adult; if so warranted, in circumstances where the Court forms an opinion that the party who approached the Court has no legal remedy before that Court beyond Indian territory.

IN RE INCAPABLE ADULT LIVING OUTSIDE INDIA - RELIEFS:

18. It has come out from the facts that the petitioner came down to India consequent upon matrimonial dispute with her husband, the father



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of the incapable adult. She was living in UAE and was with the incapable adult for a long time. According to her, due to domestic violence, she could not continue in UAE. She approached this Court in W.P.(C).No.25380/2020 through her power of attorney holder for release of her passport by her husband. Pending the writ petition, her passport was released by her husband. Accordingly, she came down to India. Her stand before this Court is that she would be able to travel back to Dubai and have the company of the incapable adult. She submits that medical intervention would not be sufficient for the well-being of the incapable adult. It is submitted that she cannot move the courts of Dubai for any relief as she is not domiciled there. We do not see any negative factors that would deprive either parents of the incapable adult from having the company of the incapable adult. For us, the question is, how can the well-being of such incapable adult be protected? Nothing has been brought before us to show that such relief regarding the best interest or welfare of the incapable adult can be secured through laws applicable in UAE. In the absence of any such contentions of the parties, we have to examine the matter based on the measures that are required to protect the interest of the incapable adult.



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19. In UNCRPD, ratified by India on 1/10/2007, it is the obligation of the State to ensure that the children with disabilities have equal rights with respect to family life with others and the State is also bound to take measures to prevent concealment, abandonment, neglect and segregation of children with disabilities [Article 23(3)]. In the same Convention, under Article 23(4), it mandates the State to ensure that the child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with the applicable law and procedures that such separation is necessary for the best interest of the child.

20. In tune with UNCRPD, the Indian Parliament enacted the Rights of Persons with Disabilities Act, 2016. In this context Section 9 of the above Act may be relevant, which reads as follows:

9. Home and family - (1) No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.

21. Section 5 of the above Act also mandates that the persons with disability shall have the right to live in the community. That means, in the home, where he gets the care and protection of parents, siblings etc. The Indian Courts by and large recognise joint parental



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care to protect the welfare of the children. The learned Amicus Curiae placed reliance on the following judgments of the Apex Court and the other Courts in India related to joint parenting and shared custody:

	PARTICULARS	CITATION
1	Yashita Sahu Vs. State of Rajasthan & Ors.	AIR 2020 SC 577 - Child Welfare, Visitation, Paras 17 to 22.
2	Savitha Seetharam Vs. Rajiv Vijayasarathy Rathnam	AIR 2020 (4) Karnataka R 372 - Shared Parenting, Paras 9, 10, 11, 15 & 32.
3	Tushar Vishnu Ubale Vs. Archana Tushar Ubale	AIR 2016 BOM 88 - Joint Custody & Shared Parenting, Paras 15, 17, 18, 19 & 20
4	Inderbir Singh Vs. Amandeep Bains	2019(3) HLR 204 - Joint Parenting & Shared Custody, Paras 20-21
5	Rajnish Sharma Vs. Kamal Kumar & Anr.	Order dated 20.12.2021 (FAO 1378 of 2021) (High Court of Punjab and Haryana) - Shared Parenting & Joint Custody at interim stage
6	Aditi Bakht Vs. Abhishek Ahuja	2022(292) DLT 106 - Shared Parenting & Joint Custody at interim stage.

22. In Re C (Adult Patient) [1994] 1 FCR 705 (Fam(Eng)) (Access: Jurisdiction), the High Court Family Division in England opined that one



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parent restricting the access of another to their mentally disabled adult child is illegal. It is further opined that access to a child was the companionship of a parent and the question of access was inextricably tied up with the question of the child's welfare. Interestingly, the High Court went on to hold that under common law, a parent had the right of access to an adult child who was a patient and interference by custodial parent with the other parent's access to the child was capable of being remedied by habeas corpus.

23. The incapable adult has every right to have the company of both the parents. A competent Court alone can deprive such company as seen from Section 9 of the Rights of Persons with Disabilities Act. Indian Courts do not generally recognize issuance of habeas when custody is with one of the parents; it only encourages interference with such custody through orders of the Family Courts. The effective remedy available under Indian law is to appoint a guardian under the National Trust Act. Section 14 of the National Trust Act provides provisions for appointment of a guardian for persons with disabilities. Section 15 enumerates the duties of guardian which includes taking care of such persons with disabilities.



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24. The respondent father filed I.A.No.1/2023 in W.P.(C).42320/2022 for interaction with the incapable adult. According to the father, the incapable adult is enjoying the unchanged environmental ecosystem for more than 10 years, and any alteration in the ecosystem and environment would be detrimental to the interest of the incapable adult. We do not find that such interaction is necessary. We had in fact, on an earlier occasion interacted with the father online. The incapable adult also appeared online. We are sure that the incapable adult will not be in a position to express any opinion in regard to his well-being. We note that the mother's presence was there all along from the childhood of the incapable adult. Though she had dispute with her husband, she never extended it to deprive the incapable adult of enjoying the company of his mother. We also note that the petitioner mother is trained to take care of such differently abled person. Therefore, we decline the request made by the father of the incapable adult.



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25. The petitioner, in fact, approached the District Collector, Pathanamthitta, to appoint her as a guardian. The District Collector was convinced that the petitioner should be appointed as a guardian, but refrained from passing an order noting that the incapable adult resides in UAE and is beyond the jurisdiction of this country. We are of the view that both parents be appointed as a joint guardian to take care of the incapable adult till any competent court decides otherwise the incompetency of either of the parents to take care of the incapable adult. The incapable adult is having every right to be under the care of his family and both parents. It may not be conducive for the petitioner to reside along with her estranged husband to take care of the incapable adult but nothing prevents her to have rotational custody so as to allow the incapable adult to enjoy the care, love and protection of both the parents. The separation of the petitioner from the incapable adult in the light of law as above is illegal. Denial of access to one parent is also illegal in the light of the statutory provisions under the Rights of Persons with Disabilities Act. In such circumstances, we are of the view that the following orders would subserve the interest of the incapable adult:



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i. The petitioner will be entitled to cyclical custody of the incapable adult from 5 P.M. every Friday till the following Thursday 5 P.M. on a rotational weekly basis.

ii. The incapable adult shall be handed over from the residence of her husband- 'Y' (*) in UAE. However, this right is available to the petitioner whenever she is in UAE.

iii. In the event her husband and the incapable adult visit India during vacation, the same pattern of custody shall be followed.

iv. In the event, 'Y' (*) travels abroad leaving the incapable adult in UAE or in India, the mother will have custody during the period of absence of 'Y' (*).

v. The parties are also free to make joint agreement varying the above cyclical arrangements on mutually agreed terms. In that event, such agreement shall be produced before the District Collector, Pathanamthitta, for the purpose of record.

vi. The Indian Consulate in Dubai shall ensure that this order is complied with by 'Y' (*).



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vii. In the light of the reliefs granted as above, we find no scope for issuing a writ of habeas and, accordingly, W.P.(Cr1).No.1206/2022 is dismissed. W.P.(C).No.42320/2022 is allowed.

We record our deepest appreciation to the learned Amicus Curiae Shri Anil Malhotra ably assisted by Adv.Ankit Malhotra who have devoted considerable time in assisting us and have made valuable suggestions from time to time.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

Sd/-

SOPHY THOMAS, JUDGE

ms

(*) parties' details are masked.



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PETITIONER'S EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE REFERENCE LETTER IN OP NO. 228134 DATED 10.06.2005 ISSUED BY DR SHEKHAR SESHADRI CONSULTANT PSYCHIATRIST OF NIMHANS BANGALORE, OUT PATIENT DEPARTMENT TO DR. SRIDEVI HEGDE OF THE MANIPAL HOSPITAL.
- EXHIBIT P2 THE TRUE COPY OF THE ASSESSMENT REPORT DATED 30.05.2005 ISSUED BY DR JAYANTHINI ADDL. PROFESSOR OF PSYCHIATRY, MADRAS MEDICAL COLLEGE AND SR. CIVIL SURGEON TO THE DETENU.
- EXHIBIT P3 A TRUE COPY OF THE REPORT DATED 03.08.2006 ISSUED BY V-EXCEL REMEDIAL CENTRE TO THE DETENU.
- EXHIBIT P4 A TRUE COPY OF REPORT DATED 03.02.2007 ISSUED BY NIPA BHUPTANI TO THE DETENU.
- EXHIBIT P5 A TRUE COPY OF THE ASSESSMENT REPORT DATED 30.02.2008 ISSUED BY SITRALAI CHARITABLE EDUCATIONAL SOCIETY TO THE DETENU.
- EXHIBIT P6 A TRUE COPY OF THE OCCUPATIONAL THERAPY ASSESSMENT DATED 23.10.2008 ISSUED BY MELWIN ISAAC, OCCUPATIONAL THERAPIST TO THE DETENU.
- EXHIBIT P7 A TRUE COPY OF THE REPORT DATED 25.10.2008 ISSUED BY WE CAN CHENNAI TO THE DETENU.
- EXHIBIT P8 A TRUE COPY OF THE CERTIFICATE ISSUED IN THE YEAR 2010 - 2012 BY SILVER N SPRINGS NURSERY AND PRIMARY SCHOOL, CHENNAI TO THE DETENU.
- EXHIBIT P9 A TRUE COPY OF THE DOCTORS NOTE SHEET DATED 03.02.2011 ISSUED BY DR PERUMAL RC OF SHRI RAMACHANDRAN HOSPITAL, TO THE DETENU.
- EXHIBIT P10 A TRUE COPY OF THE REPORT BY OCCUPATION THERAPIST MELVIN ISAAC DATED 15.02.2012 TO THE DETENU.



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- EXHIBIT P11 A TRUE COPY OF THE REFERENCE LETTER DATED 25.06.2013 ISSUED BY ABU DHABI INTERNATIONAL (PVT.) SCHOOL TO THE DETENU.
- EXHIBIT P12 A TRUE COPY OF THE PROGRESS REPORTS ISSUED BY FUTURE CENTRE SCHOOL TO THE DETENU.
- EXHIBIT P13 A TRUE COPY OF THE PSYCHOLOGICAL ASSESSMENT REPORT DATED 24.11.2016 ISSUED FROM FUTURE REHABILITATION CENTRE TO THE DETENU.
- EXHIBIT P14 A TRUE COPY OF THE DISCHARGE SUMMARY DATED 08.08.2020 PREPARED BY DR. SREEKUMAR NAIR TO THE DETENU.
- EXHIBIT P15 A TRUE COPY OF THE PEOPLE OF DETERMINATION ID CARD ISSUED BY THE MINISTRY OF COMMUNITY DEVELOPMENT, UAE TO THE DETENU CERTIFYING AUTISM.
- EXHIBIT P16 A TRUE COPY OF THE EMPLOYMENT CONTRACT NO. MB992430656AE DATED 12.10.2019 BETWEEN THE ABU DHABI COOPERATIVE SOCIETY AND THE RESPONDENT NO.7.
- EXHIBIT P17 A TRUE COPY OF THE ORDER DATED 19/11/2020 IN WP(C) NO. 25380 OF 2020 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P18 A TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT II, PATHANAMTHITTA.
- EXHIBIT P19 A TRUE COPY OF THE INTERIM ORDER DATED 10/12/2020 AS PER COMMON ORDER IN CRL.MP NO. 3417/2020, CRL.MP NO.3420/2020 IN CRL.MP NO. 3416/2020 PASSED BY THE BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT II, PATHANAMTHITTA.
- EXHIBIT P20 A TRUE COPY OF THE SCREENSHOTS OF WHATSAPP CHATS FROM MAY TO OCTOBER OF 2021 BETWEEN THE PETITIONER AND RESPONDENT NO.7.



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- EXHIBIT P22 A TRUE COPY OF THE PETITION FILED BY THE PETITIONER IN CRL MP NO. 2416/2020 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PATHNMTHITTA.
- EXHIBIT P23 A TRUE COPY OF THE PHOTOGRAPHS OF XXXXX TAKEN ON 30/01/2021, 18/02/2021 AND ON 01.06.2021.
- EXHIBIT P24 A TRUE COPY OF THE MEDICAL REPORT DATED 15/03/2021 ISSUED BY DR. SIVA PRAKSH OF THE NEW MEDICAL CENTRE HEALTHCARE TO THE DETENU.
- EXHIBIT24 (A) A TRUE COPY OF THE PHYSIOLOGICAL ASSESSMENT REPORT NO. MR NO. UD0400000157659 DATED 16/04/2021 ISSUED BY DR DANESH GOPALAN CLINICAL PHYSIOLOGIST NMC ROYAL HOSPITAL UAE TO THE DETENU.
- EXHIBIT 24 (B) A TRUE COPY OF THE MEDICAL REPORT DATED 22/12/2021 ISSUED BY DR. SHIVAPRASAD CHILD PSYCHIATRIST, NEW MEDICAL CENTRE LLC.
- EXHIBIT P25 A TRUE COPY OF FIR DATED 30/06/2021 IN CRIME NO. 0732/2021 REGISTERED BY KOIPURAM POLICE STATION, PATHANAMTHITTA.
- EXHIBIT P26 A TRUE COPY OF THE OP TICKET DATED 04.02.2019 OF DEPARTMENT OF PSYCHIATRY, CHRISTIAN MEDICAL COLLEGE, VELLORE.
- EXHIBIT P27 A TRUE COPY OF THE EMAIL COMMUNICATIONS BETWEEN THE PETITIONER AND THE OFFICE OF DR. PAUL RUSSEL.
- EXHIBIT P28 A TRUE COPY OF THE APPLICATION DATED 08/11/2021 FILED BY THE PETITIONER UNDER NATIONAL TRUST ACT BEFORE THE RESPONDENT NO.6.
- EXHIBIT P29 THE TRUE COPY OF THE LETTER NO. NORKA-A3/365/2021-NORKA DATED 05.08.2021 ISSUED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT, GOVERNMENT OF KERALA TO THE AMBASSADOR, EMBASSY OF INDIA, UAE.



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- EXHIBIT P30 A TRUE COPY OF THE E-MAILS STARTING FROM 19.07.2021 TO THE HON'BLE CHIEF MINISTER OF KERALA.
- EXHIBIT P31 A TRUE COPY OF THE APPLICATION TO THE GRIEVANCE CELL DATED 29.07.2021 ON THE CONSULAR SERVICE MANAGEMENT SYSTEM OF THE MINISTRY OF EXTERNAL AFFAIRS.
- EXHIBIT P32 A TRUE COPY OF THE E-MAIL COMMUNICATION WITH THE SUPERINTENDENT OF POLICE, NRI CELL REGARDING REPRESENTATION SUBMITTED TO THEM DATED 28.07.2021 AND 02.08.2021.
- EXHIBIT P33 TRUE COPY OF THE E-MAIL THREAD DATED 19.07.2021 AND 23.07.2021 TO THE DGP OF KERALA POLICE.
- EXHIBIT P34 TRUE COPY OF THE E-MAIL DATED 20.07.2021 TO THE HON'BLE MINISTER MR. MURALEEDHARAN, UNION MINISTER OF STATE FOR EXTERNAL AFFAIRS & PARLIAMENTARY AFFAIRS.
- EXHIBIT P35 A TRUE COPY OF THE ORDER DATED 17TH NOVEMBER 2021 IN WP(C) NO. 23474 OF 2021 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P36 A TRUE COPY OF THE MEMO FILED BY THE GOVERNMENT PLEADER AS PER THE DIRECTION OF THIS HON'BLE COURT DATED 17.11.2021.
- EXHIBIT P37 A TRUE COPY OF THE INTERIM ORDER DATED 25.01.2022 IN WP(C) NO. 23474 OF 2021 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P38 A TRUE COPY OF THE REPORT SUBMITTED BY THE INDIAN EMBASSY FOLLOWING THE DIRECTIONS OF THIS HON'BLE COURT IN WP(C) NO. 23474/2021.
- EXHIBIT P39 A TRUE COPY OF THE MEDICAL REPORT DATED 28/02/2022 ISSUED BY UMESH CHANDRAN, MANAGER MEDICAL ADMINISTRATION, AHALIA HOSPITAL TO MS. RISHA OBERAI, SECOND SECRETARY, COMMUNITY AFFAIRS & ECONOMIC, EMBASSY OF INDIA.



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- EXHIBIT P40 A TRUE COPY OF THE JUDGMENT DATED 15/09/2022 IN WP(C) NO. 23474/2021 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P41 A TRUE COPY OF THE LETTER NO. DCPTA/4377/2021-D2 DATED 29/11/2022 ISSUED BY THE RESPONDENT NO. 6 TO THE PETITIONER.
- EXHIBIT P42 A TRUE COPY OF THE INJUNCTION ORDER PASSED BY THE FAMILY COURT PATHANMTHITTA PER ORDER DATED 16/07/2022 IN IA NO. 1/2022 IN OP NO. 802 OF 2022.
- EXHIBIT P43 A TRUE COPY OF THE CERTIFICATE III ISSUED ON 22/06/2022 BY THE INSTITUTE OF HEALTH AND NURSING AUSTRALIA.

RESPONDENTS' ANNEXURES:

- ANNEXURE R7 (A) TRUE COPY OF THE SCREEN SHOTS OF THE WHATSAPP MESSAGES SEND TO THE WARD'S PHONE BY THE WRIT PETITIONER.
- ANNEXURE R7 (B) TRUE COPY OF THE MEDICAL REPORT DATED 21.12.2020 ISSUED BY DR. SIVA PRAKASH, CONSULTANT PSYCHIATRIST OF NEW MEDICAL CENTRE, DUBAI.
- EXT.R7 (D) TRUE COPY OF THE RECENT MEDICAL CERTIFICATE DATED 22.12.2021 ISSUED BY DR. SIVA PRAKASH, NEW MEDICAL CENTRE, LLC -DUBAI.
- EXT.R7 (E) TRUE COPY OF THE MEDICAL REPORT DATED 21.01.2021 ISSUED BY THE DUBAI HEALTH CARE AUTHORITY.
- EXT.R7 (F) TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE 7TH RESPONDENT.
- EXT.R7 (G) TRUE COPY OF THE LAWYER NOTICE DATED 12.10.2021.



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- EXT.R7 (H) TRUE COPY OF THE PETITION WITH ENGLISH TRANSLATION FILED BY THE PETITIONER IN THE ABU DHABI JUDICIAL DEPARTMENT, FAMILY SECTION 113/2021.
- EXT.R7 (I) TRUE COPY OF THE DETAILED FINAL JUDGMENT WITH ENGLISH TRANSLATION IN 658/2021 PASSED BY THE ABU DHABI JUDICIAL DEPARTMENT.
- EXT.R7 (J) TRUE COPY OF THE MEDICAL CERTIFICATE DATED 21.12.2022 ISSUED BY DR. SIVA PRAKASH, NEW MEDICAL CENTRE, LLC, DUBAI.
- EXT.R7 (K) TRUE COPY OF THE PROGRESS REPORT ISSUED BY FUTURE REHABILITATION CENTRE.
- EXT.R7 (C) TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE EMPLOYER OF THE SEVENTH RESPONDENT.

PETITIONER'S EXHIBITS:

- EXHIBIT P 44 A TRUE COPY OF THE EMAILS DATED 18/12/2022, ISSUED BY THE PETITIONER TO THE RESPONDENT NO.7.
- EXHIBIT P 45 A TRUE COPY OF THE REPLY EMAIL DATED 20/12/2022 ISSUED BY THE PETITIONER TO THE RESPONDENT NO.7.
- EXHIBIT P 46 A TRUE COPY OF THE EMAILS DATED 31/12/2022, ISSUED BY THE PETITIONER TO THE RESPONDENT NO.7
- EXHIBIT P 47 .A TRUE COPY OF THE EMAILS DATED 07/01/2023, ISSUED BY THE PETITIONER TO THE RESPONDENT NO.7
- EXHIBIT P 48 A TRUE COPY OF THE EMAILS DATED 08/01/2023, ISSUED BY THE PETITIONER TO THE RESPONDENT NO.7.
- EXHIBIT P 49 A TRUE COPY OF THE EMAILS DATED 14/01/2023, ISSUED BY THE PETITIONER TO THE RESPONDENT NO.7.



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- EXHIBIT P50 A TRUE COPY OF THE SCREEN SHOTS OF THE NOTIFICATIONS RECEIVED BY THE PETITIONER IN HER MOBILE THOUGHT 'ALHOSH APP' BETWEEN 22.01.2021 TO 08.06.2021 TO 14.10.2021. RELATING TO COVID 19 TEST RESULT
- EXHIBIT P51 A TRUE COPY OF THE SCREEN SHOTS OF THE NOTIFICATIONS RECEIVED BY THE PETITIONER IN HER MOBILE THOUGHT 'ALHOSH APP' BETWEEN 12.06.2021 TO 14.10.2021 RELATING TO COVID 19 TEST RESULT.
- RESPONDENTS' ANNEXURES:
- ANNEXURE R2 (A) THE RECORDS OF THE MEETING DATE AND TIME.
- PETITIONER'S EXHIBITS:
- EXHIBIT P52 A TRUE COPY OF THE APPLICATION CRL M.P NO. 94025/2023 IN SLP (CRL) NO. 2205 OF 2023 BEFORE THE HON'BLE SUPREME COURT OF INDIA.
- EXHIBIT P53 A TRUE COPY OF THE EMAIL DATED 08/05/2023 SENT BY THE COUNSEL FOR THE APPLICANT TO THE HON'BLE SUPREME COURT.
- EXHIBIT P54 A TRUE COPY OF THE ORDER DATED 10/05/2023 IN APPEAL (CRL.) NO.2205/2023 PASSED BY THE HON'BLE SUPREME COURT.
- RESPONDENTS' EXHIBITS:
- EXHIBIT R7 (L) TRUE COPY OF THE RECENT PROGRESS REPORT DATED 20.06.2023 ISSUED BY THE FUTURE REHABILITATION CENTRE, ABU DHABI.
- PETITIONER'S EXHIBITS:
- EXHIBIT P55 A TRUE COPY OF THE PRIVATE COMPLAINT CMP NO. 2158 OF 2023 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, ERNAKULAM.
- EXHIBIT P56 A TRUE COPY OF THE FIR NO. 1261 OF 2023 OF PALARIVATTOM POLICE STATION REGISTERED AGAINST THE RESPONDENT NO.7.



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RESPONDENTS' EXHIBITS:

EXT.R7 (M) PHOTOGRAPHS OF THE VIDEO CONFERENCE OF SEVERAL DAYS.

EXT. R7 (N) TRUE COPY OF THE RECENT PROGRESS REPORT DATED 20.06.2023 ISSUED BY THE FUTURE REHABILITATION CENTRE.

EXT. R7 (O) TRUE COPY OF THE RELEVANT PAGES OF THE AFFIDAVIT DATED 10.05.2023 FILED BY THE POWER OF ATTORNEY HOLDER OF THE PETITIONER

PETITIONER'S EXHIBITS:

EXHIBIT P57 A TRUE COPY OF THE INTERIM ORDER DATED 17/02/2023 IN SLP (CRL) NO. 2205/2023 BEFORE THE HON'BLE SUPREME COURT.

EXHIBIT P58 A TRUE COPY OF THE ASSESSMENT REPORT DATED 16/03/2023, SUBMITTED BY THE CLINICAL PSYCHOLOGIST AT ST. JOSEPH'S HOSPITAL, ERNAKULAM.

RESPONDENTS' ANNEXURES:

ANNEXURE R2 (B) A TRUE COPY OF THE E-MAIL COMMUNICATION DATED 02.08.2023 RECEIVED FROM THE SECOND SECRETARY, COMMUNITY AFFAIRS, PRESS, INFORMATION.

PETITIONER'S EXHIBITS:

EXHIBIT P59 A TRUE COPY OF THE ORDER DATED 05/07/1442H CORRESPONDING TO 17/02/2021 ISSUED BY THE ABU DHABI COURT FOR FAMILY, CIVIL AND ADMINISTRATIVE LAW SUITS/ PERSONAL STATUS DEPARTMENT-2 IN FILE NO. 383 OF 2021 ALONG WITH ENGLISH TRANSLATION.

EXHIBIT P60 A TRUE COPY OF THE TAX INVOICE NO. INV-OUT/301 DATED 31/12/2020 ISSUED BY ABDUL RAHIM AL ZAROONI REAL ESTATE LLC TO THE RESPONDENT NO.7.



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- EXHIBIT P61 A TRUE COPY OF THE CHEQUE DATED 14/01/2021 AND 3/03/2021 ISSUED BY RESPONDENT NO.7 DRAWN ON EMIRATES ISLAMIC BANK IN FAVOUR OF ABDUL RAHIM AL ZAROONI REAL ESTATE LLC.
- EXHIBIT P62 A TRUE COPY OF RECEIPT NO. RV000104-AZ-2020 DATED 31/12/2020 ISSUED BY ABDUL RAHIM AL ZAROONI REAL ESTATE LLC TO THE RESPONDENT NO.7.
- EXHIBIT P63 A TRUE COPY OF THE CLEARANCE CERTIFICATE (FINAL BILL) DATED 24/0221 ISSUED BY DUBAI ELECTRICITY & WATER AUTHORITY TO THE RESPONDENT NO.7.
- EXHIBIT P64 A TRUE COPY OF THE TENANCY CONTRACT NO. 202100217885 ISSUED BY DEPARTMENT OF MUNICIPALITIES AND TRANSPORT TO THE RESPONDENT NO.7.
- RESPONDENTS' EXHIBITS:
- EXT.R7 (P) TRUE COPY OF THE CHRONOLOGY OF EVENTS FROM 31.01.2003 TO 16.03.2023.
- EXT.R7 (Q) TRUE COPY OF THE EMAIL COMMUNICATION DATED 31.08.2020 SEND TO THE LANDLORD BY THE 7TH RESPONDENT.
- EXT.R7 (R) TRUE COPY OF THE EMAIL COMMUNICATION DATED 24.01.2021 SENT TO THE LANDLORD BY THE 7TH RESPONDENT.
- EXT.R7 (S) TRUE COPY OF THE ATTESTED TENANCY CONTRACT DATED 17.02.2021 ISSUED BY THE DEPARTMENT OF MUNICIPALITIES AND TRANSPORT.
- EXT.R7 (T) TRUE COPY OF THE EMAIL DATED 14.02.2021 FROM NEW LANDLORD'S REPRESENTATIVE MS KATHERINE DELIMA TO THE 7TH RESPONDENT.
- EXT.R7 (U) TRUE COPY OF THE APPLICATION DATED 21.03.2021 WITH ENGLISH TRANSLATION.



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- EXT.R7 (V) TRUE COPY OF THE ORDER DATED 11.04.2021 WITH ENGLISH TRANSLATION.
- EXT.R7 (W) TRUE COPY OF THE ORDER DATED 23.06.2021 IN APPEAL NO.658/2021 WITH ENGLISH TRANSLATION.
- EXT.R7 (X) TRUE COPY OF THE PROCEEDINGS DATED 07.07.2021 WITH ENGLISH TRANSLATION.
- EXT.R7 (Y) TRUE COPY OF THE PHOTOGRAPHS SHOWING THE PRESENCE OF THE PETITIONER IN THE HOME ON 01.06.2021 AT 12.41 AM.
- EXT.R7 (Z) TRUE COPY OF THE RESIDENCE CANCELLATION CERTIFICATE DATE 13.07.2021 ISSUED BY THE FEDERAL AUTHORITY OF IDENTITY AND CITIZENSHIP.
- EXT.R7 (AA) TRUE COPY OF THE CASES NOTIFICATIONS DATED 16.11.2020 WITH ENGLISH TRANSLATION.
- EXT.R7 (AB) PHOTOGRAPHS SHOWING THE PRESENCE OF THE PETITIONER IN THE HOME ON 15.09.2021.
- EXT.R7 (AC) TRUE COPY OF THE CERTIFICATE DATED 04.01.2023 ISSUED BY THE FUTURE REHABILITATION CENTRE.
- EXT.R7 (AD) PHOTOGRAPHS SHOWING SOME ACHIEVEMENTS AND SKILLS OF XXXXX.
- EXT.R7 (AE) PHOTOGRAPHS SHOWING THE VIDEO CALLS AND MESSAGES MADE BY THE PETITIONER TO XXXXX.
- EXT.R7 (AF) TRUE COPY OF THE CERTIFICATE OF MINISTRY'S SPONSORSHIP FROM 01.11.2022 TO 31.10.2023.
- EXT.R7 (AG) TRUE COPY OF THE PROGRESS REPORT 2020-2021 ISSUED BY FUTURE REHABILITATION CENTRE.



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APPENDIX OF WP(C) 42320/2022

PETITIONER'S EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER ALONG WITH HIS FATHER BEFORE THE RESPONDENT NO.3.
- EXHIBIT P2 A TRUE COPY OF THE JUDGEMENT DATED 15/09/2022 IN WP C NO. 23474//2020 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P3 A TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT NO. 3, LETTER NO. DCPTA/4377/2021-D2 DATED 29/11/2021.
- EXHIBIT P4 A TRUE COPY OF THE WRIT PETITION IN WP(CRL) NO 1206/2022 FILED BY THE PETITIONER BEFORE THIS HON'BLE COURT.

RESPONDENTS' EXHIBITS:

- EXT.R4 (A) TRUE COPY OF THE POWER OF ATTORNEY DEED.
- EXT.R4 (B) TRUE COPY OF THE CERTIFICATE DATED 23.12.2022 ISSUED BY DR. T.V. ANIL KUMAR, HOD, DEPARTMENT OF PSYCHIATRY, GOVERNMENT MEDICAL COLLEGE, THIRUVANANTHAPURAM.
- EXT.R4 (C) TRUE COPY OF THE CERTIFICATE REF: 221007055565 DATED 10-2-2021 WITH ENGLISH TRANSLATION ISSUED BY CHIEF OF RASHIDIYYAH POLICE STATION, ABU DHABI.
- EXT.R4 (D) TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE FOURTH RESPONDENT.
- EXT.R4 (E) TRUE COPY OF THE LAWYER NOTICE DATED 12.10.2021.
- EXT.R4 (F) TRUE COPY OF THE TABLE SHOWING THE CHRONOLOGY OF THE EVENTS PREPARED BY THE FOURTH RESPONDENT.
- EXT.R4 (G) TRUE COPY OF THE RESIDENCE CANCELLATION ISSUED BY THE FEDERAL AUTHORITY FOR IDENTITY AND CITIZENSHIP.
- EXT.R4 (H) TRUE COPY OF THE CERTIFICATE DATED 12.12.2022 ISSUED BY THE FUTURE REHABILITATION CENTRE.



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- EXT.R4 (I) TRUE COPY OF THE PROGRESS REPORT FOR THE YEAR 2021-22 ISSUED BY THE FUTURE REHABILITATION CENTRE.
- EXT.R4 (J) TRUE COPY OF THE LATEST MEDICAL REPORT DATED 12.12.2022 ISSUED BY DR. SIVA PRAKASH, NEW MEDICAL CENTRE LLC, DUBAI.
- EXT.R4 (K) TRUE COPY OF THE PSYCHOLOGICAL ASSESSMENT REPORT ISSUED BY DR.DHANESH GOPALAN, NMC ROYAL HOSPITAL LLC, ABU DHABI.
- EXT.R4 (L) TRUE COPY OF THE LETTER DATED 12.12.2022 ISSUED BY CLEOPATRA SPORT ACADEMY, DUBAI.
- EXT.R4 (M) TRUE COPY OF THE PROGRESS REPORT ISSUED BY FUTURE REHABILITATION CENTRE, ABU DHABI.