

1970
April 8

[JOSEPHIDES, J.]

ELISAVET
HJI HANNA
otherwise
ELISAVET
ANDREOU
v.
ANASTASSIOS
IOSSIF
HJI HANNA

ELISAVET HJI HANNA otherwise ELISAVET ANDREOU,
Applicant,

v.

ANASTASSIOS IOSSIF HJI HANNA,
Respondent.

(Application No. 4/70).

Matrimonial Causes—Maintenance of child—Custody of the child with access facilities for the other spouse—Order for maintenance, custody and access, as well as for a social investigation report—Liberty to apply after the filing of such report—Welfare of the child the paramount consideration.

Children—Maintenance—Custody—Access—Social investigation report to be filed in Court—See supra.

The facts sufficiently appear in the judgment of the Court.

Application for maintenance and custody.

Application by the wife for maintenance for herself and the child of the marriage and for the custody of the said child.

A. Eftychiou, for the applicant.

L. Georghiades (Mrs.), for the respondent.

Mr. Eftychiou : The child was born some time in January, 1970.

COURT : What is the exact date, surely you must know. It is the basis of your application.

Mr. Eftychiou : I shall ask my client.

COURT : You appreciate you are wasting public time. I see from the birth certificate of the child that it was born on the 8th January, 1970.

When was the marriage celebrated ?

Mr. Eftychiou : In the Office of the District Officer, Nicosia, on the 21st June, 1969.

I am claiming an order from the Court for the maintenance of the child and wife. I am also claiming custody of the child and I intend to call the applicant to give evidence.

COURT : What evidence? Have you reached that stage? Have you got an affidavit filed?

Mr Eftychiou : Yes. In accordance with the affidavit which was filed the salary of the respondent is £37 per month but I intend to dispute that.

COURT : In what way?

Mr. Eftychiou : By adducing evidence that his salary is a little bit higher than that.

COURT : Is he employed by somebody?

Mr. Eftychiou : The Electricity Authority.

COURT : Surely that is something which can be agreed between the parties or ascertained from the Authority. There should be no dispute as to that.

Mrs. Georghiades : My client earns £37 per month but on some occasions his salary may be increased up to £40 or £42. I apply that the child, aged 3 months, should be taken from the mother and given to the father.

COURT : Can you cite any case in which a child aged three months was taken from the mother and given to the father?

Mrs. Georghiades : No.

COURT : From what I have heard from both counsel this morning, I understand that no attempt at reconciliation of the parties has been made at all. Reconciliation is necessary in the interests of the child. It seems that the help of the welfare office was not sought. At a later stage I shall deal with this matter and give the necessary directions. Meantime, I shall give counsel and the parties some time to consider whether they could not agree on the amount of maintenance pending a social investigation report by the welfare office.

(The parties return to Court 30 minutes later).

Mr. Eftychiou : Unfortunately we have not been able to come to any settlement.

COURT : What is the offer and the counter offer?

Mr. Eftychiou : My client needs £10 per month at least for the maintenance of the child and herself. She

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is an unemployed person at the moment, although I stated that she was working in my affidavit, after I filed the affidavit she stopped working.

COURT : She is young and she must find employment. I am greatly concerned with the maintenance of the child.

Mr. Eftychiou : I shall not press for maintenance for herself.

Mrs. Georghiades : My client is in a position to pay only £6 per month for the maintenance as he is receiving a salary of £37, as stated earlier. His personal expenses include his stay in Nicosia, rent and food and it costs him £18 per month and before he was married he contracted a loan for £240. These facts are not included in the affidavit. My client does not refuse to contribute for the maintenance of the child but he alleges that the mother applicant is bound to contribute partly for the maintenance of the child.

Mr. Eftychiou : I do not press the wife's claim for maintenance realising the financial ability of the respondent. My client is young and she is in a position to work.

JOSEPHIDES, J. : From the affidavits filed in this case and considering the submissions made by both counsel today I am sorry to observe that no genuine attempt at reconciliation was made by the parties. The marriage, which was a civil marriage, was celebrated on the 21st June, 1969 and the child Andreas was born on the 8th January, 1970, that is, seven months after the marriage, which shows that the wife was in the family way before the marriage. Apparently, soon after, the parties quarrelled, hence these proceedings. This is a case in which the Court must have the assistance of a social investigation report.

I have considered what amount of maintenance should be contributed by the father for the maintenance of the child. I have taken into account that Mr. Eftychiou, on behalf of the wife, is not claiming any maintenance for her and, if I may say so, that is a very proper attitude which Mr. Eftychiou has taken in the matter. The wife is young and she should work and earn a living.

Having taken everything into consideration I make the following *order* :

1. The respondent father to pay the sum of £8 a month towards the maintenance of his child ; the first payment

to be made on the 30th April, 1970. At the end of six months either party will be at liberty to apply for an increase or decrease of the amount ordered.

2. A social investigation report to be prepared by a welfare officer and filed in Court within six weeks from today. The welfare officer, who is to prepare the report, is requested to try and reconcile the parties and report to Court on such effort. The welfare officer is also to look into the question of access of the father (respondent) to the child. Depending on the report, the Court will make an order with regard to access by the respondent (father). Meantime, the applicant (mother) who shall have custody of the child, is to allow access to the child at least once a week ; the day and time to be arranged in consultation with the welfare officer.

3. After the filing of the social investigation report, either party will be at liberty to apply to Court with regard to the question of access or any other matter which may arise with regard to the welfare of the child which is of paramount importance and with which this Court is concerned.

Order accordingly

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