**"Guardianship Dispute: Mrs. Rita D’Souza's Quest for Custody, Bombay High Court Upholds Guardianship of Minor Child in Complex Family Dispute**

Title: Mrs. Rita D’Souza v. Christopher Diago Zuzarte and Another

Date of Decision: 5th October, 2023

Guardianship Petition No. 9 of 2023

CORAM: R.I. CHAGLA J.

**Introduction**

The case of Mrs. Rita D’Souza v. Christopher Diago Zuzarte and Another revolves around a guardianship petition filed before the Bombay High Court. In this matter, the petitioner, Mrs. Rita D’Souza, sought a declaration that she is the true and lawful guardian of a minor child, identified as "xxxxxxx." The case involves a complex family situation, with the petitioner being the child's paternal aunt, and the respondents being the child's biological parents.

**Facts of the Case**

Mrs. Rita D’Souza, the petitioner, filed a guardianship petition, claiming that she should be declared the true and lawful guardian of the minor child, "xxxxxxx."

The petitioner cited a report from Dr. Wadia Hospital, which she claimed to be in her favor, indicating that the child's biological parents had consented to her taking responsibility for the child. The report was attached as Exhibit A.

The petitioner described certain events surrounding the birth of the child and argued that, due to the child's medical condition and the respondents' inability to care for him, the child was handed over to her care.

There was a police complaint filed by Respondent No. 1 against the petitioner, alleging that she had forcefully taken the child from them and was retaining custody illegally, further complicating the situation.

The respondents contended that they are the child's biological parents and sought custody of the child, alleging that he had been forcefully abducted by the petitioner.

**Court's Analysis and Decision**

The court conducted a thorough analysis in light of the complex and contentious circumstances: The court acknowledged that the welfare of the child is of paramount importance in guardianship matters. The psychological issues of Respondent No. 2, the biological mother, were taken into account, and it was noted that the child was extremely attached to the petitioner. The petitioner had the discharge certificate from Dr. Wadia Hospital in her favor, suggesting that the child was entrusted to her care with the consent of the biological parents. The court observed the aggressive behavior of Respondent No. 1 and the psychological issues of Respondent No. 2. Their defiance of court orders also factored into the court's decision.

Considering the welfare of the child as the paramount consideration, the Bombay High Court declared Mrs. Rita D’Souza as the true and lawful guardian of the minor child, "xxxxxxx." The court also ordered that the respondents should have access to the child and be allowed to make frequent visits. The child, however, would continue to reside with the petitioner. The court emphasized that the child's best interests were served by maintaining the current arrangement. The parties were granted the liberty to apply in case of difficulties in implementing the order, and no costs were awarded.

In summary, the court's decision upheld the petitioner's guardianship of the minor child, acknowledging her role in the child's life and the best interests of the child, while also allowing visitation rights to the biological parents.

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