

SUPREME COURT OF SEYCHELLES

Not Reportable

XP 11/2026

In the ex parte matter of:

THERESE FLORENCE PIERRE**Petitioner****Of****Anse Aux Pins****Mahe****Seychelles**

Neutral Citation: *Ex Parte: Therese Pierre* (XP 11/2026) (29 May 2026)**Before:** Adeline J**Summary:** Application for appointment as guardian of a minor – Section 402 (1) of the Civil Code of Seychelles Act, 2020**Heard:** 23 March 2026**Delivered:** 25 May 2026

FINAL ORDER

Pursuant to Section 402 (1) of the Civil Code of Seychelles Act, 2020 I hereby grant the petition, and accordingly, I appoint the Petitioner, Therese Florence Pierre of Anse Aux Pins, Mahe, Seychelles as guardian of her grandson Yron Ally Alphonse. As guardian, the Petitioner shall assume the responsibilities and obligations conferred upon her by the provisions of Section 418 (1) and (2) of the Civil Code of Seychelles Act, 2020 as of the date of this appointment which is the date of this order

JUDGMENT

Adeline, J

- [1] This matter, filed into court ex parte, concerns an application for appointment as legal guardian of a minor. The application is made by petition by one Therese Florence Pierre (“the Petitioner”) for an order of this court appointing her legal guardian of one Yron Ally Alphonse, born on the 8th July 2022, (“the minor”).

- [2] The application is supported by an affidavit deposed by the said Therese Florence Pierre to which affidavit are exhibited the necessary documents to corroborate some of the averments made therein.
- [3] On account of the affidavit evidence, the Petitioner is the grandmother of one Yron Ally Alphonse, a 3 year old male child. Birth Certificate of the child attached as exhibit.
- [4] Yron Ally Alphonse's biological mother is one Linda Sharia Ruth Likonda, deceased, who died intestate on the 11th November 2024. Death certificate of the deceased attached as exhibit.
- [5] It is averred that, since the death of the deceased, the minor has been in the care and control of the Petitioner, his maternal grandmother.
- [6] It is also averred that, by way of an order of the Family Tribunal, on the 10th December 2025, the minor's biological father, one Alister Graham Alphonse was granted legal custody of the minor, whereas the Petitioner was granted care and control of the minor. Copy of the order of the Family Tribunal dated 10th December 2025 exhibited.
- [7] It is further averred that, the minor is the sole heir of the deceased's estate which comprises of movables, namely, money paid to the deceased as contributions to the Seychelles Pension Fund, and death benefits due to the deceased who at the time of her death was employed by the Land Waste Management Agency, (LWMA).
- [8] The Petitioner avers that, she has opened a minor's bank account at Nouvobanq bearing Account No 0120108 3423018 to credit therein any funds that may be due to the minor. Proof of such account exhibited.
- [9] The Petitioner avers that, it is urgent and necessary for her to be appointed guardian of the minor, and moves this court for an order appointing her as guardian of Yron Ally Alphonse.
- [10] The biological father of the child subject to this application who appeared in person in court, informed the court that, he has no objection for the Petitioner to be appointed as a guardian of his son, Yron Ally Alphonse.

[11] The jurisdiction of this court to make the order being sought for is derived under Section 402 of the Civil Code of Seychelles Act, 2020 under which legal provision of the law this application has been made. Section 402 of the Civil Code of Seychelles Act is couched in the following terms;

“When no guardian is appointed to a minor by the parents of the child, or the survivor of them, or when the parents are unable to appoint, the guardian shall be appointed by the court.”

[12] Whilst under Section 416 of the Civil Code of Seychelles Act, *“the duty of a guardian is to protect the ward”* (defined as a person who has guardian) once appointed, by virtue of Section 418 (1) of the Code, the guardian *“must act and administer the property of the ward as from the day of becoming guardian”*. As per Section 418 (2) of the Civil Code of Seychelles Act, the guardian so appointed by the court takes up the obligations as from the date of the appointment if present, or if not, as from the date of notification of the appointment.

[13] The question that now falls to be determined, is whether on account of the uncontroverted affidavit evidence in support of this application, the application should succeed?

[14] It is settled law in this country’s jurisprudence, as well as in international jurisprudence that, when taking decisions on matters concerning minors, that the best interest of the child shall be the paramount consideration. For guidance, see Article 3 of the United Nation on the rights of the child, and Section 2A (1) of the Children Act, 1989 as amended. It is argued that, what is in the best interest of the child in a particular case has to be determined on the facts and circumstances of the case before the court. In JVS 19 AC 668, the court held that’

“When all the relevant facts, relationship, claims and wishes of parents, risks, choices and other circumstances are taken into account and weighed, the course to be followed will be the best interest of the child”.

[15] Therefore, based on our jurisprudence in this area of law, the law requires that, administrative and judicial decisions taken on matters concerning minors have to be guided

by what is in the best interest of the child/minor principle. This approach has been endorsed in the case of *Duffet v La Poudrielle* CS 26 of 2016 (An appeal from the Family Tribunal in CS 141 of 2016) SCSC 196 of 2017. In *Duffet*, (Supra), *inter alia*, the court had this to say;

“[60] This court cannot be clearer as far as the best interest of the minors are concerned. The whole basis of our Children’s Act, and the relevant provisions vis-à-vis custody applications are geared towards judicial decisions and judgments to be delivered in the best interest of the child. The best interest of the child is to be decided on the facts of each case individually”.

- [16] In essence, case law authorities suggest, that to ascertain the best interest of the child/minor in a given factual situation, the court ought to have regard to the welfare principle which is often described as *“the paramount consideration”*. In the case of *David Twesigye* (an infant) HCMA No 004 of 2008 (at page 4, 5 and 6) Chigamo Owiny Dollo, J while considering an application for guardianship gave some useful insight to the welfare principle, when he stated the following;

“While the primary right of a child is to grow up under the tutelage of his or her parents, or parent for the obvious reason of emotional attachment, if it is shown to the satisfaction of the competent authority and in this case, the court, that vesting legal guardian of the child in the Applicant it would serve the best interest of the child, then it would be proper for this court to make an order removing such child from the parent. Court has to weigh the emotional loss of staying with one’s parents against the opportunities that would come with the relocation away from the hands of the parents”.

- [17] In *Van Deijil v Van Deijil* 1966 4SA 260 R (in a matter concerning custody and guardianship) the court said, that to make decisions in the best interest of the child, the following facts have to be considered;

“The interest of the minor means, the welfare of the minor and the term welfare must be taken in its widest sense to include economic, social, moral and religious considerations.

