

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
COIMBATORE.**

**Present: Tmt. G. VIJAYA, B.A., M.L., PGDCFS,
Principal District Judge, Coimbatore.**

Thursday, this the 12th day of March, 2026

(திருவள்ளூர்வராண்டு, 2057, விசுவாவசு ஆண்டு மாசி திங்கள் 28-ஆம் நாள் வியாழக்கிழமை)

**G.W.O.P.No.393/2024
(CNR No.TNCB010133642024)**

[In the matter of Declaration of custody of minor children Mithun (aged about 13)]

Akash,
S/o.Ravi

... Petitioner

//vs//

Sivakumar

... Respondent

This petition came up for final hearing on 17-02-2026 before this Court in the presence of **Tvl. P.G.Vijay, D.Aishwarya and K.Maiharshini**, Advocates for the petitioner and respondent having been called absent and set exparte, upon hearing petitioner's side arguments, perusing the petition and other connected records, having stood over for consideration till this date, this Court passes the following:

ORDER

The petitioner has filed this petition, u/s.6 of Hindu Minority and Guardianship Act, 1890 r/w Sec.7 to 10 of Guardians and Wards Act, 1890, praying to appoint the petitioner as Natural Guardian to minor Mithun, aged 13.

2. **The averments stated in the petition are in brief as follows:-**

(i) The respondent herein is the ex-husband of minor's mother Shylaja. The petitioner is the cousin brother of the minor. Minor's mother Shylaja, petitioner's mother and minor's grandmother namely Janaki are living together. On 19-06-2009, Minor's mother and the respondent got divorce mutually before the Family Court, Coimbatore. Thereafter, minor's mother and the respondent has been living separately. The petitioner and the minor are living along with their grandmother Janaki. At the time of birth of the petitioner, his father left himself and his mother. Thereafter in the year 2017, petitioner's mother passed away. Thereafter, the petitioner and the minor are under the care and custody of minor's mother Shylaja.

(ii) After getting divorce, minor's mother started to live along with another person and gave birth to the minor and is living as a single parent. She did not disclose anything regard the above said person to anybody. While so, on 14-02-2024, minor's mother Shylaja died. Further of the marriage of the respondent and Shylaja, a female child namely Madhumitha was born to them and she died on 04-03-2024. Further the grandfather of the minor pre-deceased in the year 2001. On 26-10-2022, grandmother of petitioner and the minor namely Janaki died.

(iii) The petitioner herein is taking care of the minor from his childhood. Both the petitioner and minor are living together till date. As of now, minor Mithun is studying 8th standard in Government Middle School, Ellapalayam. While so, the respondent herein is trying to bring the minor unlawfully. But the minor has not intended to go along with the respondent and he wants to be with the petitioner till he attains majority. Both the petitioner and the minor are living peacefully with love and affection. Under the above said circumstance, it is just and necessary to appoint the petitioner as Natural Guardian to the minor Mithun and hence, the petitioner filed the present petition.

3. Notice to the respondent served. Though the respondent received notice, he has not chosen to appear before this Court. No representation for the respondent. Respondent called absent and set exparte on 23-01-2025.

4. **The point that arises for consideration in this petition is**, whether the petitioner has to be appointed as Natural Guardian to Minor Mithun, aged 13 years, as prayed in the petition or not?

POINT:-

5. In this petition, the petitioner was examined as P.W.1 and 12 documents have been marked as Ext.P-1 to Ext.P-12. One Balan Madhavan who is the

husband of another sister of petitioner's mother as well as minor's mother, has been examined as P.W.2 and marked Ext.P-13.

6. Heard and documents perused. The petitioner herein who is the cousin brother of the minor Mithun filed the present petition, praying to appoint him as Natural Guardian to the minor Mithun.

7. The learned counsel for the petitioner would argue that, the respondent herein is the ex-husband of minor's mother Shylaja. The petitioner is the cousin brother of the minor. Minor's mother Shylaja, petitioner's mother and minor's grandmother namely Janaki are living together. On 19-06-2009, Minor's mother and the respondent got divorce mutually before the Family Court, Coimbatore. Thereafter, minor's mother and the respondent have been living separately. The learned counsel has further submitted that, petitioner's father left the petitioner and his mother from his childhood. The petitioner and the minor are living along with their grandmother Janaki and Thereafter, the petitioner and the minor are under the care and custody of minor's mother Shylaja.

8. The learned counsel has further argued that, after getting divorce, minor's mother started to live along with another person and gave birth to the minor and is living as a single parent and she did not disclose anything regard the above

said person to anybody. The learned counsel has further argued that, on 14-02-2024, minor's mother Shylaja died. The respondent and minor's mother Shylaja are having a female child namely Madhumitha, and she died on 04-03-2024. Further the grandfather of the minor pre-deceased in the year 2001. On 26-10-2022, grandmother of petitioner and the minor namely Janaki died.

9. The learned counsel has further argued that, the petitioner herein is taking care of the minor from his childhood and both of them are living together till date. The learned counsel has further argued that, as of now, minor Mithun is studying 8th standard in Government Middle School, Ellapalayam. The learned counsel has further argued that, now the respondent herein is trying to bring the minor unlawfully, but the minor has not intended to go along with the respondent and he wants to be with the petitioner till he attains majority. The learned counsel has further argued that, both the petitioner and the minor are living peacefully with love and affection and since the respondent is trying to bring the minor along with him unlawfully, it is just and necessary to appoint the petitioner as natural guardian to the minor and prays to allow the petition.

10. In this petition, the respondent who is the husband of the minor's mother remains exparte.

11. In support of the petition, the petitioner has been examined as P.W.1. P.W.1 in his evidence deposed that, the respondent herein is the ex-husband of minor's mother Shylaja. P.W.1 has further deposed that he is the cousin brother of the minor. Minor's mother Shylaja, his mother and minor's grandmother namely Janaki are living together. On 19-06-2009, Minor's mother and the respondent got divorce mutually before the Family Court, Coimbatore. The copy of the order for divorce has been marked as **Ext.P-3**. Thereafter, minor's mother and the respondent has been living separately and thereafter, he and the minor are living along with their grandmother Janaki. P.W.1 has further deposed that his father left him and his mother, at the time of his birth and thereafter, in the year 2017, his mother passed and thereafter, he and the minor are under the care and custody of minor's mother Shylaja.

12. P.W.1 has further deposed that, after getting divorce, minor's mother started to live along with another person and gave birth to the minor and is living as a single parent and she did not disclose anything regard the above said person to anybody. The birth certificate of minor Mithun has been marked as **Ext.P-2**. P.W.1 has further deposed that, on 14-02-2024, minor's mother Shylaja died. The death certificate and legal heir certificate of Shylaja have been marked as **Ext.P-3 and Ext.P-9 respectively**. Further a female child namely Madhumitha was born to Shylaja and the respondent she died on 04-03-2024 in a road accident and FIR has been registered in this regard. The death certificate

and legal heir certificate of Madhumitha has been marked as **Ext.P-5 and Ext.P-11 respectively**. The above said FIR and Alteration Report have been marked as **Ext.P-7**. P.W.1 has further deposed that, the grandfather of the minor pre-deceased in the year 2001 and on 26-10-2022, their grandmother Janaki died. The cremation report has been marked as **Ext.P-12**.

13. P.W.1 has further deposed that, he is taking care of the minor from his childhood and they are living together till date and as of now, minor Mithun is studying 8th standard in Government Middle School, Ellapalayam. The transfer certificate issued in the name of the minor Mithun has been marked as **Ext.P-8**. P.W.1 has further deposed that, the respondent herein is trying to bring the minor unlawfully, but the minor has not intended to go along with the respondent and he wants to be with him till he attains majority. P.W.1 has further deposed that, both he and the minor are living peacefully with love and affection and since the respondent is trying to bring the minor, it is just and necessary to appoint him as a natural guardian to the minor child and prays to allow the petition.

14. Further in support of the case of the petitioner, one Balan Madhavan, who is the husband of another sister of petitioner's mother and minor's mother, has been examined as P.W.2. P.W.2 has deposed in the line of P.W.1.

15. On perusal of the evidence of P.W.1 along with the documents, it reveals that one Janaki is having three daughters namely petitioner's mother, minor's mother namely Shylaja and the wife of P.W.2. The respondent and the mother of minor Shylaja are husband and wife. On 19-02-2009, they got divorce mutually vide order in HMOP No.1028/2008, passed by the learned Family Judge, Coimbatore. Ext.P-4 proves the same. Thereafter, both minor's mother Shylaja and the respondent are living separately. While so, minor's Shylaja had developed relationship with another person and of their relationship, on 16-11-2010, minor Mithun was born. Ext.P-2 proves the same. On 14-02-2024, minor's mother Shylaja died. Ext.P-3 is the death certificate of deceased Shylaja and Ext.P-9 is the legal heir certificate of deceased Shylaja. Further one Madhumitha is the sister of the minor Mithun and the said Madhumitha died in a road accident happened on 04-03-2024. On 26-10-2022, grandmother of minor as well as the petitioner died and her husband predeceased her in the year 2001.

16. Whereas, on perusal of the documents produced by the petitioner, it appears that the birth certificate of minor Mithun has been produced as Ext.P-2. In Ext.P-2, respondent's name has been mentioned as father of the minor. The death certificate of minor's mother Shylaja has been produced as Ext.P-3. In the said death certificate, respondent's name has been mentioned as husband of the deceased. The death certificate of minor's sister Madhumitha has been

produced as Ext.P-5, in which, the respondent's name has been mentioned as father of the deceased. Further the said Madhumitha died in the road accident and FIR has been registered in Crime No.142/2024 on the file of the Annur Police Station. On perusal of the contents of the FIR, it appears that the respondent has been mentioned as father of the deceased Madhumitha. In the above said circumstance, the petitioner who is the cousin brother of the minor, has filed the present petition, praying to appoint him as a guardian to the minor. Though the respondent's name has been mentioned in the above said documents, despite receipt of notice in this petition, the respondent has not chosen to appear before this Court to deny the case of the petitioner and claim right over the minor Mithun.

17. According to P.W.1, he is taking care of the minor from his childhood and both he and minor are living together till date and as of now, minor Mithun is studying 8th standard in Government Middle School, Ellapalayam and now the the respondent herein is trying to bring the minor unlawfully, however the minor has not intended to go along with the respondent and he wants to be with him till he attains majority and both he and the minor are living peacefully with love and affection. In order to deny the case of the petitioner, the respondent has not chosen to appear before this Court. Taking into view all the above said aspects, this Court is of the considered view that it is just and necessary to

appoint the petitioner as the legal guardian of the minor. Point is answered accordingly.

In the result, this petition is allowed and the petitioner is appointed as natural guardian of the minor Mithun (aged about 13). No cost.

This order is dictated to steno-typist directly, typed by her in computer, corrected and pronounced by me in open Court, on this the 12th day of March, 2026.

PRINCIPAL DISTRICT JUDGE,
COIMBATORE.

LIST OF DOCUMENTS MARKED

On the side of the petitioner:-

Ext.P-1	---	Photocopy of the Aadhaar card of the petitioner.
Ext.P-2	17-06-2011	Photocopy of the birth certificate of minor S.Mithun who born on 16-11-2010.
Ext.P-3	26-04-2023	Death certificate of deceased Shylaja who died on 14-02-2023 (computer downloaded printout)
Ext.P-4	19-06-3009	Photocopy of the fair and final order passed in HMOP No.1028/2008 passed by the Family Court, Coimbatore
Ext.P-5	15-03-2025	Photocopy of the death certificate of deceased Madhumitha who died on 04-03-2024.
Ext.P-6	---	Photocopy of the Aadhaar card of the minor Mithun.
Ext.P-7	---	Photocopy of the FIR and Alteration Report filed in Crime No.142/2024, on the file of

		Annur Police Station.
Ex.P-8	---	Photocopy of the Transfer Certificate issued by T.S.A.Government Higher Secondary School, Kattampatty in the name of the minor Mithun.
Ext.P-9	12-07-2023	Legal her certificate of deceased Shylaja (computer downloaded printout).
Ext.P-10	---	Photocopy of the Aadhaar card of the respondent.
Ext.P-11	02-07-2024	Photocopy of the legal heir certificate of deceased Madhumitha (computer downloaded printout)
Ext.P-12	---	Cremation Report issued by the Coimbatore Corporation in the name of Janaki. (original)
Ext.P-13	---	Photocopy of the Aadhaar card of P.W.2.

On the side of the respondent:-

NIL

LIST OF WITNESSES EXAMINED

On the side of the petitioner:

P.W.1 Thiru.Akash (petitioner)

P.W.2 Thiru.Balan Madhavan

On the side of the respondent:-

NONE

PRINCIPAL DISTRICT JUDGE,
COIMBATORE.

//True copy//

Draft Order in
G.W.O.P.No.393/2024
Dated:12-03-2026.