

**IN THE COURT OF THE PRINCIPAL DISTRICT COURT,  
KRISHNAGIRI**

**Present: Tmt.V.R.Latha, M.A., B.L.,**

**Principal Sessions Judge, Krishnagiri.**

Friday, the 27<sup>th</sup> day of February 2026

**I.A.No.01/2025 in G.O.P.No.183/2025**

[In the matter of minor Lithanya, D/o Late C. Mohana Sundar, aged about 5 years]

1. R.G.Chinnaraj

2. Vasanthi

...Petitioners

Versus

1. Nagendran

2. Gandhimathi

3. Poonkuzhali

...Respondents

This petition is coming up for final hearing before me on today in the presence of Tr.R.Ezhilarasan, Tr.R.Y.Senthilraj Advocates for petitioners, and Tr.R.Vijayakumar, Advocate for respondents, and upon hearing both side

arguments and upon perusing the documents and the case having stood over for my consideration till this day, I delivered the following

**ORDER**

This petition has been filed by the petitioners, under Section 151 of CPC, seeking visitation rights of the minor child Lithanya on every Saturday and Sunday till the disposal of G.O.P.No.183/2025

**2] The Gist of the petition are as follows:-**

i] The 1<sup>st</sup> petitioner is the father of late C. Mohansundar. The 2nd petitioner is his wife. The marriage between the petitioners' son C. Mohansundar and the 3rd respondent was solemnised on 09.11.2018 according to Hindu rites and customs at K.M. Natesa Kalyana Mandapam, Kaveripattinam. After marriage, the couple resided in the matrimonial home of the petitioners. Out of the wedlock, a female child namely Lithanya was born on 13.11.2019. The minor child is now aged about 5 years. The child was brought up in the care and custody of the petitioners till July 2024. It is stated that the petitioners' son met with a road accident and died on 21.01.2023. Even after his death, the 3<sup>rd</sup> respondent and the minor child continued to reside with the petitioners for about one and a half years. Respondents 1 and 2, who are the parents of the 3rd respondent, used to visit her regularly and there was

no objection from the petitioners. In July 2024, the 3rd respondent informed that she wished to go to her parents' house for a few days. Accordingly, she went to the house of respondents 1 and 2 along with the minor child. Thereafter, the 3rd respondent allegedly started maintaining distance from the petitioners and avoided their phone calls. When the petitioners visited the respondents' house in September 2024, the 3rd respondent stated that she would return within one or two weeks. However, she did not return thereafter and allegedly avoided further communication.

ii] It is further stated that whenever the petitioners went to see their grandchild, respondents 1 and 2 did not permit them to see the child, stating that the child had gone to school or dance class. For nearly one year, the petitioners were allegedly not allowed to see the minor child. Hence, a complaint dated 19.09.2025 was lodged before the All Women Police Station, Hosur, in CSR No.375 of 2025. During enquiry, it came to light that the 3rd respondent had contracted a second marriage with one Yuvaraj and is residing separately with him. The minor child is presently in the custody of respondents 1 and 2. Even at the police station, it is alleged that the petitioners were not permitted to interact freely with the child. It is further averred that the 3rd respondent, after her second marriage, is not taking care of the minor child and is not attending to her welfare or upbringing. The petitioners state

that they are the paternal grandparents of the minor child. Their only son has passed away and their daughter is married and living separately. The petitioners claim to be financially stable and physically and mentally fit to take care of the minor child. It is contended that the child was brought up under their care from birth and has developed emotional attachment with them. The minor child is presently residing with respondents 1 and 2, who are the maternal grandparents. According to the petitioners, the continued separation of the child from them is detrimental to the emotional and psychological well-being of the minor child. Hence, the present petition has been filed under Section 7 of the Guardians and Wards Act, 1890, seeking permanent custody of the minor child Lithanya. Pending disposal of the petition, the petitioners seek visitation rights on every Saturday and Sunday, as they are allegedly not being permitted to see the child. It is further stated that denial of access to the grandchild has caused mental agony to the petitioners.

3] A memo has been filed on behalf of the respondent stating that the counter affidavit filed in the main Guardianship Original Petition may be adopted and treated as the counter in this Interlocutory Application.”

**4] The Gist of the counter averments in brief:**

i] The 3<sup>rd</sup> respondent contends that the Original Petition filed by the petitioners is not maintainable either in law or on facts and is liable to be

dismissed. The allegations made in the petition are stated to be false, incorrect and baseless, except the fact that her husband died in a road accident on 21.01.2023, which is admitted. It is specifically denied that the 3rd respondent continued to reside in the petitioners' house after the death of her husband. According to the 3rd respondent, she was permitted to stay only for one week to perform post-death rituals and was thereafter compelled to leave and go to her parents' house. The allegation that she stayed with the petitioners till July 2024 is denied as false. The 3<sup>rd</sup> respondent further states that even during the lifetime of her husband, she was subjected to mental cruelty and was not treated properly by the petitioners. After her husband's death, the petitioners did not show any concern towards her or the minor child. The present petition, according to her, has been filed only because she contracted a second marriage and not out of genuine concern for the welfare of the child.

ii] It is further alleged that the petitioners attempted to use the police machinery to intimidate her and to take custody of the child at the police station after coming to know about her remarriage. Having failed in such attempt, they have filed the present petition with malafide intention. The 3rd respondent states that before her remarriage, she discussed the welfare of the child with her present husband Yuvaraj and his family, and that the child is living with her and her second husband. It is denied that the child is residing

with respondents 1 and 2. The child is stated to be under her care, attending school regularly, and being properly looked after. The allegation that she has neglected or abandoned the child is specifically denied. The 3<sup>rd</sup> respondent asserts that she is the natural guardian of the minor child and there is no legal necessity to appoint the petitioners as guardians. The welfare of the child is not affected in any manner. It is further contended that the petitioners have made false allegations regarding custody only to mislead the Court and disturb her second marriage. It is also stated that respondents 1 and 2 are unnecessary parties, as the child is not residing with them. The petition, according to the 3<sup>rd</sup> respondent, does not disclose any valid cause of action and is filed with malafide intention to harass her. Hence, she prays for dismissal of the petition.

**5. Based on the respective contentions raised by both sides, this court has framed the following point for final determination:**

Whether the petitioners are entitled to get the relief as prayed for?

6] No oral and documents adduced on both sides.

**ANSWER TO THE POINT :**

7] The learned counsel for the petitioners would submit that the minor child Lithanya was born out of the wedlock between the petitioners' son and the 3<sup>rd</sup> respondent and that the child was brought up in the petitioners' house

from birth. After the unfortunate death of the petitioners' only son on 21.01.2023, the 3<sup>rd</sup> respondent and the minor child continued to reside with the petitioners for a considerable period and the child was under their care and affection. The learned counsel would further submit that suddenly the 3<sup>rd</sup> respondent left the matrimonial home along with the child and thereafter started preventing the petitioners from seeing their grandchild. Despite several attempts, the petitioners were not permitted to meet or even speak with the child. Even at the police station, the petitioners were not allowed to interact freely with the minor child. It is further argued that the 3<sup>rd</sup> respondent has contracted a second marriage and is living separately, and that the minor child is not receiving proper emotional care in the present circumstances. The petitioners, being the paternal grandparents and close blood relatives of the deceased father, are genuinely concerned about the welfare of the minor child.

8] The learned counsel would submit that the petitioners are financially stable, physically fit and capable of providing a secure and loving environment for the child. The child was attached to the petitioners from birth and had been under their care for several years. The sudden separation has caused emotional distress to both the petitioners and the child. It is further argued that the petitioners have not approached this Court with any malafide intention, but only to safeguard the welfare and future of the minor child. At

the very least, the petitioners are entitled to visitation rights, as denying access to paternal grandparents is not in the best interest of the child. Therefore, the learned counsel prays that this Hon'ble Court may consider the welfare of the minor child as paramount and grant appropriate orders, including interim visitation rights, in favour of the petitioners.

9] The learned counsel for the 3<sup>rd</sup> respondent would submit that the petition itself is not maintainable either in law or on facts and is filed with malafide intention. Except the factum of death of the husband on 21.01.2023, all other allegations made in the petition are denied as false. The learned counsel would strongly contend that the 3<sup>rd</sup> respondent did not continue to reside in the petitioners' house after her husband's death. She was permitted to stay only for one week for performing the funeral rituals and was thereafter compelled to leave and go to her parental house. The allegation that she stayed till July 2024 is specifically denied. It is further submitted that the present petition has been filed only after the 3<sup>rd</sup> respondent contracted a second marriage. The petitioners have no genuine concern about the welfare of the child and their grievance is only regarding the remarriage of the 3<sup>rd</sup> respondent.

10] The learned counsel would further argue that the 3<sup>rd</sup> respondent is the natural guardian of the minor child and the child is presently residing with

her. The minor child is being properly looked after, attending school regularly and living in a stable family atmosphere along with the 3<sup>rd</sup> respondent and her present husband. The allegation that the child is neglected or not in the custody of the mother is denied as false. It is also submitted that the petitioners attempted to interfere in the peaceful life of the 3<sup>rd</sup> respondent by using police officials to intimidate her after coming to know of her remarriage. Having failed in their attempt to take custody through pressure, they have now approached this Court. The learned counsel would finally submit that under law, the welfare of the minor child is paramount consideration. When the natural mother is alive, fit, and taking proper care of the child, there is no necessity to appoint the paternal grandparents as guardians. The petition does not disclose any valid ground affecting the welfare of the child. Therefore, the learned counsel prays that the petition is liable to be dismissed as it lacks bona fides and does not serve the interest of the minor child.

11] Heard the learned counsel on both sides. Perused the petition, counter and materials available on record. It is not in dispute that the minor child Lithanya was born to the son of the petitioners and the 3<sup>rd</sup> respondent. It is also admitted that the petitioners' son died in a road accident on 21.01.2023. Therefore, the minor child has lost her father at a very young age. The main dispute between the parties is regarding custody and access. The petitioners

contend that they were denied access to the child after the 3<sup>rd</sup> respondent left the matrimonial home. The 3<sup>rd</sup> respondent denies the allegations and states that the child is living with her and is properly taken care of. At this stage, this Court is not deciding the question of permanent custody. The main Guardianship Original Petition is still pending. The only issue for consideration now is whether the petitioners are entitled to interim visitation rights. It is well settled that in matters relating to custody of a minor child, the welfare of the child is the paramount consideration. The child has lost her father. The petitioners are the paternal grandparents. It cannot be denied that grandparents also play an important role in the emotional growth of a child. Denying the child an opportunity to meet her paternal grandparents may affect her emotional development. At the same time, the natural mother is alive and there is no material at this stage to show that she is unfit to take care of the child. Therefore, custody cannot be disturbed at this interim stage. However, complete denial of visitation to the paternal grandparents is not in the best interest of the child. Considering the age of the child and the relationship between the parties, this Court is of the view that reasonable visitation rights can be granted without affecting the custody of the 3<sup>rd</sup> respondent. Such an arrangement would balance the rights of the grandparents and the welfare of the child.

In the result, the petitioners are granted interim visitation rights till the disposal of the main Guardianship Original Petition. The petitioners are permitted to meet the minor child Lithanya every Saturday and Sunday. The visitation shall take place at any temple situated near the residence of the respondents, at a time mutually convenient to both parties, for reasonable duration. The respondents shall ensure that the minor child is brought to the said place for visitation without fail. The petitioners shall not cause any disturbance or attempt to take custody of the child during such visitation. The arrangement shall continue till disposal of the main GOP. No costs.

Dictated to steno-typist, directly typed by him in computer, corrected and pronounced by me in the Open Court on this, the 27<sup>th</sup> day of February, 2026.

Principal District Court,  
Krishnagiri.