

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, TIRUVALLUR

Present : Dr. J. JULIET PUSHPA, Ph.D.(Law)

Principal District Judge, Tiruvallur

Thursday, the 26th day of March, 2026

I.A.1/2025 IN GWOP.191/2025

(CNR No. TNTR010035882025)

T. Eniyaranjani

....Petitioner

Versus

R. Ganesh

.....Respondent

This Petition coming on for final hearing on 04.03.2026 in the presence of M/s T. Muthamilselvi, K. Vijayalakshmi, learned counsel for the Petitioner and M/s A.R. Poovannan, learned counsel for the respondent, and upon hearing the arguments of both side and upon perusing the material case records and having stood over for consideration till this date, this Court delivered the following:-

ORDER

This Petition filed by the petitioner under Section 12 of Guardians and Wards Act, 1890 to grant decree for ordering the respondent to handover her minor son G. Jayakrishnaa (born on 06.11.2016) to the interim custody of petitioner on every Friday evening and to have the custody till Monday morning as interim custody pending disposal of the Original petition.

2. **The averments in the Petition filed by the Petitioner are as follows:-**

According to the petitioner, she is a Siddha Doctor and the marriage with

the respondent was conducted 12.02.2016 and out of the wedlock, her minor son G. Jayakrishna was born on 06.11.2016. During the July 2020, one day without any plan, packers and movers came with a vehicle to the matrimonial house and all the household articles and other materials were packed and the respondent along with the child left the matrimonial house and moved to Chennai leaving the petitioner in Tiruvarur. All the attempts made by the petitioner to join them proved futile. Though the petitioner tried to join the respondent in Chromepet, but the respondent refused and changed the school, and the child was shifted from the school and their whereabouts of the respondent and the child could not be traced by the petitioner. Hence, faced with no other alternative, she filed HMOP.98/2022 before Sub Court, Tiruvarur and the same was decreed on 20.07.2023. Since the respondent is denying the visitation rights of the petitioner to visit her minor son, it affects severely affects the child physical and mental health, which resulted in parental alienation syndrome. Even as per the directions in the divorce proceedings, the respondent permitted her to visit the child on 15.07.2023, 09.09.2023, 14.10.2023, 09.12.2023, 10.02.2024 pending proceedings, but the respondent permitted only for 10 minutes. After grant of divorce, on 20.04.2023, the situation deteriorated and during the month of February, 2024, she was not even permitted to visit the child since the child is not known to her. Hence, she has filed the original petition seeking custody of the child. Since the welfare of the child is paramount consideration in determining the issues relating to the child

custody and visitation rights, the present petition is filed seeking interim custody/ visiting rights of the minor G. Jayakrishna. The petitioner has remarried another widower on 05.12.2024 and he is having 13 years old girl child. Due to depriving of the rights to see the minor Jayakrishna, the petitioner is feeling lonely. Hence, the petitioner is having equal rights on the custody of the child. Hence prayed to give interim custody of the child on every Friday evening till Monday morning as interim custody.

3. **The averments in the Counter filed in the original petition adopted as counter in this petition filed by the respondent in brief is as follows:-**

The respondent admits the marriage and birth of the minor ward. The minor is living with the respondent at present. The respondent never done any service as mother to the child. From the childhood, the services like cleaning of child's clothes, bathing and all medical needs were carried out only by the respondent. The respondent was only concentrating to join the post of Assistant Medical officer for which she went for examination and coaching at Pallavaram from 9 AM to 6 PM. Only since the respondent refused to give Rs.15 lakhs to get AMO Job, she quarreled and went to her brother's house saying that she will live with someone who give Rs.15 lakhs. Even when she joined respondent at Adambakkam New Colony, she demanded Rs.20 lakhs to pay housing loan of her father, which he refused due to financial constraints, for which she quarreled and went to job at Annanagar. Since the respondent was

against sending the child to day care centre, she demanded to pay the debt of her father. Again she demanded Rs.25 lakhs for getting job at National Institute of Siddha Chennai in September 2019 and quarreled with the respondent. Further, during the year 2020, she demanded Rs.20 lakhs from the respondent for buying a farm house and petitioner registered in her name. He went to USA and brought the petitioner and the child to USA in February 2021, and thereafter, they returned in July 2021. After that, he admitted the child in NSN School in Crhomepet, Chennai for LKG. The child is also attending studies through oneline . She had treated the respondent cruelty and beaten him in front of the child and caused blood injuries. She attacked the child with steel water bottle and child's lip was torn. Even she threatened the respondent that she would kill him and the child. Petitioner had taken 10 sovereign gold ornaments and chased the respondent and the child out of the house. Hence, the respondent took th child and went to Chennai on 09.06.2022 at Chromevet and it was only his mother Valarmathi was taking care of the of the child. The respondent took the child to Eye Hospital for eye test, wherein she came and quarrrled with the respondent and went away leaving the child alone. On 26.06.2020, she convened Panchayat at Thiruvarur and threatened with dire consequences even for the child, thus, the respondent shifted to Kaatupakkam with CCTV arrangements on 08.07.2022 and changed school at Maharishi Vidhya Mandir. Even though the petitioner lodged the complaint before Superintendent of Police Tiruvallur for which she was advised to live with the

respondent. She had no plan to live with the respondent and obtained divorce. Hence, the petitioner has no intention to take care of the child, but only to harass the respondent. In the past 3 years, the petitioner came to see the child only once on 15.07.2023 at Mangadu Kamachi Amman temple as mother and she never bought even a single piece of cloths for the child. Even the respondent declined to have the job in USA as he could not take care of the child. The petitioner abandoned the child for the past three years. This petition is filed only to get maintenance from the respondent in the name of the child. There are no merits in this petition. Hence prayed to dismiss the petition.

4. No oral and documentary evidence on both sides.
5. **Now the point for consideration in this petition is**
 - (i) **Whether this petition to grant interim custody of the minor son, G. Jayakrishnaa to the petitioner as sought for in this petition is ordered to be allowed or not ?**
 - (ii) **To what relief the petitioner is entitled to ?**

6. **POINT:**

Heard both side.

This petition is filed by the petitioner/mother seeking interim custody of her minor son G. Jayakrishnaa on all Saturdays and Sundays till the disposal of the original petition.

7. On perusal of records and points put forth by both counsel, it is seen that main original petition was filed by the petitioner against the respondent seeking permanent custody of her minor son G. Jayakrishnaa and to direct the respondent to hand over the custody of the children to her. Pending the original petition, the petitioner has come forward with this petition seeking interim custody.

8. The case of the petitioner is that the marriage between petitioner and respondent was performed on 12.02.2016 and after the birth of the child, the respondent caused cruelty to her and taken away the child and even their whereabouts is not known from 2020 and denied her from visiting her child and they were separated 09.06.2022 and thereafter, she obtained divorce on 20.07.2023. Thereafter, the respondent denied the visitation rights to the petitioner from the month of February 2024. Hence, pending the original petition, she has come forward with this petition seeking interim custody of her minor son during weekends.

9. Per contra, this petition is opposed by respondent contending that it was only the petitioner who separated himself from the respondent and he never cared about the child and she was always interested in pursuing her medical career and only money motivated person and the original petition is filed only for extracting money.

10. Admittedly, the minor male child G. Jayakrishnaa is now in the custody of respondent/father. The petitioner is none other than the mother of the minor child. While the petitioner alleges that the respondent has denied the petitioner to visit the child, the respondent accuses her about her careless attitude towards the children and also voluntarily got divorce and she has not visited the child since 15.07.2023.

11. Admittedly, the relationship between respondent and the petitioner is strained and the petitioner filed HMOP.98/2022 before Sub Court, Tiruvarur and the same was decreed on 20.07.2023. The petitioner alleges that the respondent denied her visitation rights upon the child and she has not seen the children from the year 2022, and also accused of the respondent denying the petitioner to visit her minor son.

12. In view of the above said contentions of both parties and also since almost three years has already passed since the petitioner was having visit to the child, this Court wanted to have interaction with the child to ascertain his willingness for the plea of the petitioner to the interim custody of her minor son. Accordingly, this Court interacted with both the minor child on 03.12.2025. Both the minor son G. Jayakrishnaa, expressed during the interaction that he had acquaintance with the petitioner as mother , but he stated that he is not willing to accompany with the petitioner/mother. It appears that the minor ward is happy with the custody of respondent and not even expressed willingness for interim custody or the visitation of the petitioner/mother.

13. The learned counsel for the petitioner argued that the petitioner is none other than the mother of child and she has to take part in the course of maintaining the child for which her part of having parental right over the children is required, hence sought for interim custody atleast during weekends. On considering this argument, this Court considers that in the cases of custody of minor wards, the paramount consideration is “the welfare of the children” and not the rights of their parents. On this point, this court relies upon the judgment of Hon“ble Supreme Court in the case of Gaurav Nagpal v. Sumedha Nagpal, passed in Civil Appeal No.5099/2007 on 19/11/2008, wherein in para 40 of the judgment, the Hon“ble Supreme Court has observed that

“Merely because there is no defect in his personal care and his attachment for his children, which every normal parent has, he would not be granted custody. Simply because the father loves his children and is not shown to be otherwise undesirable does not necessarily lead to the conclusion that the welfare of the children would be better promoted by granting their custody to him. Children are not mere chattels nor are they toys for their parents. Absolute right of parents over the destinies and the lives of their children, in the modern changed social conditions must yield to the considerations of their welfare as human beings so that they may grow up in a normal balanced manner to be useful members of the society and the guardian court in case of a dispute between the mother and the father, is expected to strike a just and proper balance between the 25 requirements of

welfare of the minor children and the rights of their respective parents over them.”

14. The minor child is now aged 10 years and he seems to have realized about his custody and also expressed his willingness on his own volition. He is in the stage of expressing his willingness to be in the custody of whom he would like to. Moreover, he is in the stage to have preference and realize which would be their better environment to grow. The child is separated from the petitioner for the past 3 years. The respondent disputes the conduct of the petitioner towards the child and also about their matrimonial relationship, the respondent does not deny the visitation rights of the petitioner, which he has expressed in his counter that she had visited the child only once since 2023.

15. In respect of the issues involving custody of minor wards, the paramount consideration is only in the interest and welfare of the minor wards. The petitioner seeks interim custody of the child during weekends. From the interaction had with the child, it is clear that the minor ward is not willing to accompany with the petitioner even though the child does not assign any specific reason for such non-willingness. Therefore, if the same is ordered, certainly it would affect the mental status of both the minor ward, which would be against his welfare and wish. Moreover, interim custody on all weekends will also put the child's studies in adverse manner. Therefore, this Court is not inclined to grant interim custody of the minor ward to the petitioner.

16. At the same time, this Court considers that the petitioner is none other than mother of her son. Due to the matrimonial dispute between the petitioner and respondent, they are living separately and divorce was already granted as on 20.07.2023. The child is now under the care and custody of the respondent/father. While so, this Court has to consider the concern of the mother, i.e. since the petitioner, being mother is naturally having love and affection on her own minor son. Moreover, the enquiry also, the child has recognized the petitioner as his mother. Thus, there is no impediment in allowing the petitioner to have interim visitation rights upon the minor ward according to the convenience of the child till the disposal of the suit.

17. In view of the discussions supra, this Court has to realize and respect the relationship and the concern of the petitioner towards her own minor son at this stage, the petitioner has every right to visit her child at the convenience of the minor ward. Moreover, the respondent has no serious objection to the visitation of the petitioner to her minor child.

18. In view of the discussions supra, this court is inclined to grant visitation rights to the petitioner once in a month with conditions. These points are answered accordingly.

In the result, this petition is dismissed. However, considering the relationship between the petitioner and the minor ward, this Court is inclined to grant visitation rights to the petitioner on conditions as follows:

1. The respondent is directed to produce minor son G. Jayakrishnaa (born on 06.11.2016) to the petitioner at the Office of the District Legal Services Authority, Tiruvallur on the first Saturday of every month between 2.30 PM to 5.00 PM in the presence of Secretary, District Legal Services Authority, Tiruvallur at the convenience of the minor wards.
2. The petitioner is given liberty to interact with her minor child at the above place and time.
3. The respondent, at the time of the interaction of petitioner with her minor child shall not give trouble to the petitioner and the minor ward.
4. Both the petitioner and respondent shall act with best interest of the minor ward.
5. The petitioner and the respondent shall ensure that during the visiting hours, the minor ward should not be subjected to any mental agony.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 26th day of March, 2026.

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner and respondent side witnesses
& Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**