

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, TIRUVALLUR
PRESENT: Tmt.J. JULIET PUSHPA, B.Sc., M.L.,
Principal District Judge, Tiruvallur

Wednesday, the 30th day of April , 2025

I.A.1/2025 in GWOP.235/2023
(CNR No. TNTR010050492022)

S. Muthukumar @ Madhan

....Petitioner

Versus

N. Janani Rajalakshmi,

.....Respondents

This Petition coming on for final hearing on 25.04.2025 in the presence of M/s P. Natarajapillai, V. Nirmalraj, learned counsel for the Petitioner and M/s S. Muthukumaravel, 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 interim custody of the petitioner's daughter M. Aadhira , aged 7 years and minor son M. Ruthvik, aged 4 years to the petitioner on every Saturday at 10.00 AM and allow them to be with him and his parents till 7.00 PM Sunday and also to direct the respondent to bring his minor children whenever the case posted for hearing and permit him to access his children at mediation Center, Tiruvallur or Ambattur or any other convenient

place of the respondent.

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

The petitioner is the petitioner in the main Original Petition praying to grant custody of his minor daughter M. Aadhira and minor son M. Ruthvik now aged 7 and 4 years respectively. The marriage between petitioner and respondent held in Tirunelveli and due to the wedlock two children, daughter M. Aadhira was born on 16.09.2016 and son, M. Ruthvik was born on 10.01.2020. Due to difference of opinion, they decided to end their martial ties and had decree of divorce by mutual consent in HMOP.18/2022 dated 05.09.2022. The respondent refused to give custody of the children to him. The respondent does not require any financial assistance but agreed and permitted him to have visiting the children. From May 2023, the respondent deliberately denied the petitioner to visit the children and to stay with him for once in every two months. Even though the respondent accepted for visiting rights, she did not consider the request till date. The respondent refused to permit the petitioner to see his children, which put the petitioner into mental agony and frustration. Only when there is a healthy co-parenting, the children will lead a happier childhood instead of emotionally broken. Though the petitioner filed main original petition, the respondent did not file counter and dragging on the case purposely to defeat his right. Hence, prayed to direct the petitioner to hand

over the custody of children on every Saturday at 10 AM till 7 PM Sunday and to access his children at the mediation centre, Tiruvallur or at Ambattur till disposal of original petition.

3. **The averments in the Counter filed by the respondent in brief is as follows:-**

The respondent admits the marriage and birth of the minor wards. The respondents resisted the petition stating that the respondent was working in UAE with salary of 16000 AED , but only at the insistence of petitioner, she was forced to shift to India and since he could not find decent job, he became abusive in nature due to anxiety. The respondent is working and is able to provide good education and future for the children. Already decree of divorce was granted in HMOP.18/2022 on 05.09.2022 wherein no visitation or custody of the children was ordered, except the averments by the petitioner herein in the Counter in the said divorce petition that he wants to visit the children at the weekends. During 2022, when the respondent send the children to petitioner during weekends, he failed to send the children at the end of weekends which affected the studies of the children. Even there are evidences that the petitioner abused the respondent in front of the children and portrayed him as good father by giving some gifts to the children. During April 2023, the petitioner and his family members barged into the house of respondent and forcibly taken the children to Omalur, Salem due to which the children fell sick and returned the

children in sick condition. Since the petitioner started to threaten the respondent, it led to a police complaint in CSR.No.737/2023 before Ambattur Police station wherein on 11.06.2023 the visitation was arranged in public place wherein also the petitioner started to abuse her and also attacking her physically which was stopped with the intervention of police. On 15.06.2023 despite all this, the petitioner went to the school of the children and quarrelled with the institution to see the children and finally at the police station, the petitioner was advised by the police to file guardianship petition. Even after filing the original petition he had been visiting the children on 6th, 5th, 19 and 21st August 2023 and on 28.08.2023, the petitioner used foul language before the children and the respondent was abused physically. All the behavior of the petitioner led to chaos and wellbeing of the children and only to harass the petitioner this petition is filed. The petitioner used to take the children forcibly from the respondent on 13.02.2023, and on 08.03.2023. Therefore, if the petitioner wants to meet the minor children once in a month in a neutral public place near respondent's residence and the petitioner should not put the children into mental distress with his inappropriate behavior. Due to respondent's job and education of the children, the prayer of the petitioner is not practically suitable for the wards which will affect the children. Hence, strongly object this 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 children M. Aadhira , and minor son M. Ruthvik to the petitioner on every Saturday and Sunday as sought by the petitioner is ordered to be allowed or not ?**

(ii) **Whether this petition is to be allowed ?**

6. **POINT:**

Heard both side.

This petition is filed by the petitioner/father seeking interim custody of his minor children, M. Aadhira and M. Ruthvik from 10.00 AM on every Saturday till 7.00 PM on every Sunday.

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 respondents seeking custody of the his minor children, M. Aadhira and M. Ruthvik and directing the respondents to hand over his minor children. The petitioner is none other than biological father of the above children and the respondent is the mother.

8. The case of the petitioner is that the marriage between petitioner and respondent was performed on 09.02.2014 and due to difference of opinion, the they filed divorce petition by mutual consent in HMOP.18/2022 which was

allowed 05.09.2022 , thereby the marital ties between them ended. Now, the petitioner has come forwarded the original petition seeking permanent custody of the child. While the original petition is pending, he has filed this petition seeking interim custody on all Saturdays and Sundays to spend time with the children.

9. Per contra, this petition is opposed by respondent contending that the even now the petitioner is regularly visiting the children on various occasion, but he used to behave rudely towards the respondent and also forcibly taken away the children many times, which ultimately affect the health and education of the minor children. Moreover, since the respondent is working and children are studying, it is not feasible to give custody of the children on all Saturdays and Sundays.

10. Admittedly, the minor children M. Aadhira and M. Ruthvik are now in the custody of respondent/mother. The petitioner is none other than the father of the minor children. While the petitioner alleges that the respondent has denied the petitioner to visit the children, the respondent accuses him about his inappropriate behavior and abusive nature towards the respondent at the time of visiting the children.

11. Admittedly, the respondent and the petitioner are now separated by decree of divorce which was granted in HMOP.18/2022 on 05.09.2022. When the petitioner alleges that the respondent denied his visitation rights upon the

children, the respondent vehemently accuses him of his rude behavior during visiting hours previously.

12. In view of the above said contentions of both parties and also since almost two years have already passed since the divorce and also since the petitioner does not dispute that he is regularly visiting the children, this Court wanted to have interaction with the children to ascertain their willingness for the plea of the petitioner to the interim custody of his minor children. Accordingly, this Court interacted with the minor children on 25.04.2025 through video conferencing. Both the minor children have expressed during the interaction that they have acquaintance with the petitioner as father and they have already been visited by him. However, it appears that both the children are happy with the custody of respondent and not expressed any willingness to accompany with the petitioner/father for days together, but willing to see the father during visiting hours.

13. The minor children are now 8 year and 5 years old. The respondent does not dispute the visitation rights of the petitioner herein as father of the children and stated that she allowed only contention of the respondent is that during his previous visit to the children, he made the situation not conducive for the children and focused only to exhibit his hatred towards the respondent. This Court has ascertained the fact during the interaction with the minor wards that the minor daughter of the petitioner is now aged 8 years

and his son is aged 5 years old. They have expressed in words that they are comfortable with their mother, the respondent. However, they have also expressed their willingness to see their father, the petitioner herein. Though the petitioner is a natural guardian and biological father of the minor children, considering the interaction this Court had with the children, if the plea of the petitioner to have the custody of the children for two days, i.e. on all Saturdays and Sundays is allowed, the minor children would be put to hardships as they cannot accompany with the father for two days every week, which would also detrimental to their studies. Therefore, the plea of the petitioner with regard to interim custody on all Saturdays and Sundays cannot be granted.

14. At the same time, the petitioner is none other than the father of the minor children. Therefore, this Court has to realize and respect the relationship and the concern of the petitioner towards his own children, who have expressed their willingness to see their father. Therefore, at this stage, the petitioner has every right to visit his children, which the respondent has also conceded.

15. In view of the discussions supra, this court is inclined to grant visitation rights to the petitioner on the first Saturday of every month and also on the birth days of the children with conditions. These points are answered accordingly.

In the result, this petition is partly allowed without costs as follows:

- 1. The respondent is directed to produce minors (1) M. Aadhira and (2) M. Ruthvik 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.**
- 2. The petitioner is given liberty to interact with minor children at the above place and time.**
- 3. The respondent, at the time of the interaction of petitioner with his minor children shall not give trouble to the petitioner and the minor wards.**
- 4. Both the petitioner and respondent shall act with best interest of the minor wards.**
- 5. The petitioner and the respondent shall ensure that during the visiting hours, the minor wards 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 30th day of April, 2025 .

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner and respondent side witnesses
& Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**