

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

Tuesday, the 16th day of September, 2025

I.A.3/2025 in GWOP.235/2023
(CNR No. TNTR010050492023)

M. Muthu Kumar @ Madhan

...Petitioner

Versus

N. Janani Rajalakshmi

.....Respondent

This Petition coming on for final hearing on 16.09.2025 in the presence of M/s P. Natarajapillai, S. Francis, 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 custody of minor over daughter's birthday on 16.09.2025 and son's next birthday on 10.01.2026 from 9 AM and allow them to be with the petitioner and his parents till 9 PM, and the petitioner shall leave the children back at the respondent's place or house or other convenient place of 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 aged 7 and 4 years respectively. The marriage between petitioner and held in Tirunelveli and due to the wedlock two children, daughter M. 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 divorce by mutual consent in HMOP.18/2022 dated 05.09.2022. The refused to give custody of the children to him. The respondent does not any financial assistance but agreed and permitted him to have visiting the children. From May 2023, the respondent deliberately denied the petitioner 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 there is a healthy co-parenting, the children will lead a happier childhood of emotionally broken.

His daughter's next birthday is on 16.09.2025 and son's birthday is on 10.01.2026 and he wanted to celebrate the birthdays with his children. Hence prayed to direct the respondent to handover the custody of the minor wards of both the children on daughter's next birthday on 16.09.2025 and son's next birthday on 10.01.2026 from 9 AM till 9 PM.

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. respondents resisted the petition stating that the respondent was working in with salary of 16000 AED , but only at the insistence of petitioner, she was 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 education and future for the children. Already decree of divorce was HMOP.18/2022 on 05.09.2022 wherein no visitation or custody of the was ordered, except the averments by the petitioner herein in the Counter in said divorce petition that he wants to visit the children at the weekends. The petitioner used foul language before the children and the respondent was physically. All the behavior of the petitioner lead to chaos and wellbeing of children and only to harass the petitioner this petition is filed. Without progressing the original petition, the petitioner is expecting interim orders to delay the proceedings. Without a full-fledged trial vice versa, main relief cannot be granted which is legally impermissible. The wards are still fearing go with petitioner with the wards at the fag end of visitation hours. The are having their regular cycle test on 12.09.2025, 15.09.2025, 16.09.2025, 18.09.2025, 19.09.2025, 22.09.2025, 22.09.2025, 23.09.2025, 24.09.2025, So, it is not advisable for the wards to be handed over with the custody of during those days and the same was revealed by the wards to the petitioner

visitation hours, inspite of the same the petitioner is filing the petition which not maintainable. The respondent and the minor wards are now residing in Bangalore and it is not the petitioner's jurisdiction to decide the and it is the wards jurisdiction that has to be decided and in view of change residential address, of the respondent and the ward the main petition itself is maintainable in law and the Court has to decide the jurisdiction aspect as a preliminary issue. 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 children M. Aadhira , and minor son M. Ruthvik to the petitioner on their respective birthdays 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.

7. On perusal of records and points put forth by both counsel, it is that main original petition was filed by the petitioner against the respondent seeking custody of his minor children, M. Aadhira and M. Ruthvik and directing the respondents to hand over his minor children on their next

which falls on 16.09.2025 and 10.01.2026 respectively from 9 AM to 9 PM to celebrate their birthdays. The petitioner is none other than biological father 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, 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 forward with the original petition seeking permanent custody of the child. While the original petition is pending, he has filed this petition seeking interim custody to have the custody of his minor children. Per contra, this petition is opposed by respondent contending that even now the petitioner is regularly visiting the children on various occasions, 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, the respondent along with the children are now residing in Bangalore and in view of their change of residence, the main Original petition itself has no jurisdiction before this Court and also the minor wards are having school tests from 12.09.2025 till 24.09.2025, hence, it is not feasible to handover the custody of the children on 16.09.2025.

10. Admittedly, the minor children M. Aadhira and M. Ruthvik are in the custody of respondent/mother and are now residing at Bangalore. 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 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. Already I.A.No.1/2025 was allowed by this Court on 30.04.2025 thereby permitting the petitioner to have visitation to his children on every Saturday between 2.30 PM to 5.00 PM in the presence of Secretary, District Legal Services Authority, Tiruvallur.

12. In view of the above said contentions of both parties and also almost three 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 plea of the petitioner to the interim custody of his minor children. this Court interacted with the minor children on 16.09.2025 at 4.00 PM video conferencing. Both the minor children have expressed during the interaction that they have acquaintance with the petitioner. However, it that both the children are happy with the custody of respondent and not any willingness to accompany with the petitioner/father for whole day of

birthday, but willing to see the father during limited hours after the their birthday at their residence at Bangalore.

13. The minor children are now 9 year and 6 years old. The does not dispute the visitation rights of the petitioner herein as father of the children , but contends that since the children are having studies and also their residence to Bangalore, the visitation to the petitioner for the whole not be feasible for the children. This Court has ascertained the fact during interaction with the minor wards that the minor daughter of the petitioner is aged 9 years and his son is aged 6 years old. Admittedly, they are now Bangalore. They have expressed in words that they are comfortable with mother, the respondent. At the same time, they have also expressed their willingness to see their father, the petitioner for one or hour two hours on birthdays. Though the petitioner is a natural guardian and biological father minor children, considering the interaction this Court had with the children, plea of the petitioner to have the custody of the children for the whole day of their birthdays from 9 AM to 9 PM, the studies of minor children would be hardships as the minor daughter and the son have their school cycle test on said date for which the examination schedule is also produced by the Thus, if the custody is ordered for whole day, it would also be detrimental to studies and examination as the birthdays of both children falls on the school working days. Therefore, the plea of the petitioner with regard to interim form 9 AM to 9 PM cannot be granted.

14. At the same time, the petitioner is none other than the father of the minor children. He wants to celebrate their children's birthdays. Therefore, this Court has realized and respects 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, more particularly on their birthdays, which the respondent has also conceded without detrimental to the convenience, studies and willingness of the minor wards.

15. In view of the discussions supra, this court is inclined to grant visitation rights to the petitioner on the birthdays of his children at the place, time and convenience to the children preferably after the celebration of their birthday with the respondent at their residence. 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 7.30 PM till 9.00 PM on 16.09.2025 and on 10.01.2026 respectively , i.e. on their birthdays at the place nearer to the respondent's residence at Bangalore at the convenience, wish and willingness of the minor wards.**
- 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 accompany with the children, but 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 16th day of September, 2025 .

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner and respondent side witnesses
& Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**