

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, TIRUVALLUR
PRESENT: Dr.J. JULIET PUSHPA, Ph.D. (Law)
Principal District Judge, Tiruvallur

Monday, the 29th day of June, 2026

I.A. No.2/2025 in GWOP.643/2021
(CNR No. TNTR010069622021)

V. Subramani

....Petitioner

Versus

S. Santhi

.....Respondent

This Petition coming on for final hearing on 19.06.2026 in the presence of M/s S. Srija, S. Arunkumar, Jothi, R. Abi Priya, learned counsel for the Petitioner and M/s R. Vignesh, 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 visitation rights over the minor children of his deceased brother namely S.V. Sachitha and S.V. Jayacharan at any public place , on every Saturday or Sunday without interference of the respondent/petitioner or her relatives till the disposal of the Original petition.

2. The averments in the Petition in brief:-

According to the petitioner, the original petition was filed by the respondent seeking custody of the her two minor children S.V. Sachitha , aged 16 years and S.V. Jayacharan, aged 13 years, whose father was late.

Sundaravadanam, the younger brother of the petitioner. The deceased Sundaravadanam was his younger brother and the respondent is not his legally wedded wife. The late. Sundaravadanam passed away on 14.05.2021 leaving behind his two minor children as his sole legal heirs to succeed to his estate excluding the respondent. His brother Sundaravadanam was legally married to one Sangeetha Lakshmi on 30.08.2007 and she died in a road accident on 29.07.2013. After her death, two minor children were under the sole care of their father Sundaravadanam. Due to challenges faced by his brother in raising the children, the respondent was employed as maid to take care of the children. Unfortunately his brother succumbed to Covid-19 on 14.05.2021 at Thiruvannamalai Government Hospital. A day earlier on 13.05.2021, his younger sister K. Sujatha also passed away due to Covid-19 at Chidambaram Government hospital. Owing to travel restrictions during pandemic and unexpected events, he could not attend his younger brother's funeral but ensured all related expenses were sent through his relatives. After the death of younger brother, the respondent fraudulently claimed to be his legally wedded wife and obtained legal heir certificate illegally. She initially approached Tahsildar, Avadi for issuance of certificate, but the petitioner raised objection which lead to rejection of her application. Despite, she cleverly approached the Tahsildar, Tiruvannamalai Taluk and managed to obtain legal heir certificate, including her name as legal heir along with the minor children, which is invalid, since it was issued without jurisdiction since permanent residence of

Sundaravadanam was not Tiruvannamalai Taluk. The respondent has no relationship with petitioner's brother. The deceased Sundaravadanam was working in Tiruvannamalai only for 10 months. It was very suspicious on the previous day of the death of petitioner and deceased brother Sundaravadanam who was perfectly hale and healthy and received the death message forwarded by the respondent telephonically about the death of his sister Sujatha. The future life of the minor children are at risk at the hands of respondent who had no concrete family background, permanent source of monthly income. After the death of petitioner's brother Sundaravadanam, during the short span, the minor daughter Sachitha was revealed many information about the respondent to the petitioner. When the petitioner tried to get the 2nd child legally, the respondent filed HCP No.1124/2021 before Hon'ble High Court to get the right over the 1st child Sachita, directed the petitioner to hand over the custody of Sachita to the respondent and also obeyed and handover the custody of the 1st child to the respondent. After the death of Sundaravadanam, the respondent not taken any steps to get them admission in school, hence, he got the minor daughter of his brother admitted in VIII Standard Government school at Villivakkam Panchayat, Chennai near to the resident of petitioner and get transferred to Kendirya Vihar school at IAF, Avadi or at HVF Model school at Avadi. The Minor child Sachitha was given ID EMIS No.33101204202120691 while admitting in the school. The other minor son Jayacharan ID EMIS No.331012042021910705 he was also admitted in the same school. As per the

order of the Hon'ble High Court, the custody of the child was handed over to the respondent but the child was not allowed to continue her education. As on date, the minor children are not admitted in any school. The respondent is acting prejudice to the interest of the minor. When the petitioner attempted to meet the children, the respondent threatened that she will lodge false complaint against the petitioner and even he was not permitted to meet the children in the 2nd week of March, 2022 and the respondent is obstructing him from meeting the children. Even the husband of the respondent Parthasarathy is still alive which she concealed intentionally. Hence, filed petitions u/s 75 of Civil Rules of Practice praying to direct the concerned authorities to provide the information regarding original ID proof of petitioner and their family members so as to ascertain the respondent is living in the address stated by the respondent. The future of the minor children is at significant risk if they are placed under the custody of the respondent and their development may be hindered. Hence, the children are in dire need of psychological support of the petitioner. Under the custody of the respondent, the children are undergoing harm and emotional distress, which would have lasting impact on their lives. Hence, pending disposal of the original petition, visitation rights may be granted to the petitioner to visit the children at any public place, on every Sunday and Saturday without interference of respondent and her relatives.

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

The respondent resisted the petition contending all the allegations in the petition. This petition is not maintainable since the petitioner does not consider the paramount welfare of the minor children as reiterated by Hon'ble Apex Court in the case of *Roxann Sharma Vs. Arun Sharma* and *Ratan Kundu Vs. Abhijit Kundu*, and *Mausami Moitra Ganguli Vs. Jayant Ganguli*, it was held that custody decision must prioritize the best interest and emotional well-being of the children. The petitioner deliberately suppressed the material facts. The respondent is continued to take care of the minor children, attending to their daily needs, emotional well-being and overall development. The relationship between the deceased and the respondent is a matter of evidence and the same cannot be decided upon bald allegations. The respondent is having legal heir certificate of the deceased which was issued by the competent authority. The Hon'ble High Court, Madras in HCP No.1124/2021 has already recognized the custody of the minor children with the respondent and the same is complied with by the petitioner. This attempt is nothing but a litigation of settled issues which is impermissible. The petitioner who does not have any direct knowledge is making reckless allegations. The petitioner made false allegations regarding covid-19 death of the deceased. Allegations regarding covid-19 death suspicion, personal character of respondent and family background are irrelevant, scandalous and liable to be struck-off. The minor wards are safe,

emotionally stable and properly cared under the custody of the respondent. Hence, at this stage, their mental stability cannot be disturbed, 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**

Whether this petition to grant visitation rights to minor children, S.V. Sachitha, and S.V. Jayacharan, to the petitioner as sought by petitioner is ordered to be allowed or not

6. **POINT:**

Heard both side.

This petition is filed by the petitioner, who is the paternal uncle seeking visitation rights to the minor children, S.V. Sachitha, and S.V. Jayacharan who are under the care and custody of the respondent.

7. On perusal of records and points put forth by both counsel, it is seen that main original petition was filed by the respondent against the petitioner seeking permanent custody and declaration of legal guardianship over the minor children S.V. Sachitha, and S.V. Jayacharan .

8. The case of the petitioner is that the respondent is not the legally wedded wife of his younger brother Sundaravadanam, who died in the year 2021 leaving two minor children S.V. Sachitha, and S.V. Jayacharan, whom were born through his legally wedded wife Sangeetha Lakshmi who died in a road accident on 29.07.2013 and the respondent was only a maid under his

brother who illegally taken custody of the children after his death and his brother died in a suspicious manner, the children are in the forceful custody of the respondent, hence, their future is not secured , hence, the petitioner who is none other than the paternal uncle may be granted visitation rights to the children

Per contra, the respondent accuses of the petitioner that the petitioner of taking forceful custody of the minor children and the petitioner has got valid legal heir certificate , the minor wards are comfortable in stay with the petitioners and custody was already granted by the Hon'ble High Court, Madras while deciding HCP 1124/2021 , hence, the petitioner cannot re-agitate the settled issue.

9. Reasons for seeking interim custody of the child is that the respondent has denied the visit of the petitioner to the children of his younger brother as his younger brother Sundaravadanam died in the year 2021 and the petitioner had taken illegal custody of the children though she is not the minor wards.

10. The main contention of the petitioner seeking custody of the minor child is that the respondent is not taking care of the children and forcefully taken away even though the children and the conduct of the petitioner is suspicious , hence, to monitor the progress of the education and well-being of the children.

11. On perusal of records, it shows that the father of the minor wards Sundaravadanam was married to one Sangeetha Lakshmi and out of the

wedlock, two children S.V. Sachitha, born on 24.07.2008 and S.V. Jayacharan born on 21.05.2011. Thus, it is evident that the minor S.V. Sachitha will be attaining majority as on 24.07.2026, within one month from this date. As far as the minor S.V. Jayacharan is concerned, he has attained the age of 15 years. Therefore, the minor wards have attained the age of realizing their willingness and as to whom their custody should be.

12. It is always good for the upbringing of the children with the love and affection of both the parents. In this case, both the parents were died. While the petitioner is the paternal uncle, the respondent claim that she was the legally wedded wife of the father of the children. While both the side dispute about taking custody of the minor wards, it is not denied by either side that while the minor S.V. Sachitha was under the custody of the petitioner immediately after the death of her father, the respondent approached the Hon'ble High Court, Madras and filed HCP.1124/2021 seeking directions to hand over the custody of the children to her, wherein orders was passed by the Hon'ble High Court, as follows :

“(1) to handover the custody of S.V. Sachitha to Santhi and leaving it open to the parties to work out their remedies before the appropriate forum with regard to the guardianship..

(2) and to direct the Child Welfare Committee, Tiruvallur to visit the house of Santhi , off and on in order to ensure that the two children and brought up well...”

It is evident that the custody of the children was directed to be handed over with the respondent by the Hon'ble High Court, Madras. Therefore, the

contention of the petitioner that the respondent is having unlawful custody of the minor wards is not acceptable

13. In the cases of seeking custody of minor child, the paramount consideration must be the welfare of the minor ward. In view of the above said contentions of both parties and also since almost 4 years have already passed as claimed by the petitioner that he could not see the children, this Court wanted to have interaction with the minors to ascertain his willingness for the plea of the petitioner to have the visitation. Accordingly, this Court interacted with the minor children in the original petition on 13.09.2024. During the interaction, the minor wards expressed that they are not willing to have visitation of the petitioner, but both the children are acquainted with the petitioner in the past. Moreover, it appears that the minor wards are happy with the custody of the respondent and does not want the company of the petitioner.

14. The petitioner has sought for only visitation rights. Therefore, by having visitation upon the children periodically, no prejudice would be caused to the respondent. Admittedly, the petitioner disputes the legal heirship of the respondent with his brother Sundaravadanam. Moreover, the respondent is not the biological mother of the minor wards. Due to the dispute over the death of Sundaravadanam, the respondent apprehends that the petitioner would separate the minor wards from her Custody. With regard to the custody of the children, the main Original petition is pending. While so, this Court has to consider the concern of the petitioner, who is none other than the paternal uncle of the minor

wards is naturally having love and affection towards the minor wards. Moreover, the enquiry also, the children have recognized the petitioner as their paternal uncle. In respect of the minor Sachitha, she will be attaining majority next month, i.e. July 2026. Even if the visitation is ordered, the same will become infructuous in the month of July 2026 in respect of minor Sachitha. Thus, there is no impediment in allowing the petitioner to have visitation rights upon the minor Jaycaharan till he attains majority or till the disposal of the original petition whichever is earlier and also according to the convenience of the children.

15. In view of the discussions supra, this Court has to realize and respect the relationship and the concern of the petitioner towards the minor wards, the petitioner has rights to visit the children of his brother, but strictly at the convenience of the minor wards. The respondent is not the biological mother of the minor wards.

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

In the result, this petition is partly allowed and the petitioner is granted visitation rights upon the minor wards with the following conditions :

- 1. The respondent is directed to produce minor wards , S.V. Sachitha (born on 24.07.2008) and S.V. Jayacharan (born on 21.05.2011) 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 only at the willingness of the minor wards and at the academic and other convenience of the minor wards.

- 2. The petitioner is given liberty to interact with her minor wards at the above place and time.**
- 3 The respondent, at the time of the interaction of petitioner with the minor wards 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 29th day of June , 2026.

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner side witnesses & Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Fair Order in
I.A.2/2025 in GWOP.643/2021
DD : 29/06/2026
PDJ Court, Tiruvallur