

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

Thursday, the 9th day of April, 2026

I.A. No.2/2026 in GWOP.846/2021
(CNR No. TNTR010088052021)

A. Krishnaveni,

....Petitioner

Versus

N. Arunachalam

.....Respondent

This Petition coming on for final hearing on 25.03.2026 in the presence of M/s D. Lemuvel, C. Murugan, R. Hariharan, learned counsel for the Petitioner and M/s V. Ganesh, G. Anto Prince, A. Gnanasekar, M. Kurus Celin Rani, B. Balamanikandan, Hameed Anwar, Akilandeewari, G. Anto Robert, M. Surya, Neyya, K. Kavitha, R. Sanjana, S.H. Shawn Hebre , 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 minor son, Adhithya Arunachalam (born on 21.03.2014) to the petitioner till the disposal of the main original petition.

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

The marriage between petitioner and respondent was held on 30.11.2012 at Vadasery Kanyakumari and out of the wedlock, male child Adhithya Arunachalam was born on 21.03.2014. After the birth of the child, the respondent started to quarrel for unknown reasons. The respondent was working as Manager of GTec Whirlpool of India Limited company at Pune, but purposely did not take her with him because the respondent wanted that his son to grow with respondent's parents. Even the child was taken for aadhar registration without the petitioner's knowledge. The child was sent to Pune to the respondent. Without the petitioner's consultation the respondent and his father purchased land for respondent and when she questioned, there was quarrel happened. Slowly the child was separated from the petitioner all the time. All the duties for her son was done by paternal grandparents and later the Pune house was shifted by both petitioner and respondent. One day though she got angry over the child casually, the respondent made it a big issue and called her sister and informed the same and also brainwashed the child to shiver on seeing her. The respondent and his mother stopped talking to the petitioner and took the child from her causing more frustration, loneliness and more confusion in her mind. On 14.03.2021 at Nagercoil, the respondent created a scene that the petitioner pushed him down and sustained injuries, then he took the child from the petitioner and went to Chennai. From 14.03.2021, the respondent did not

allow the petitioner to talk to her child, though the respondent allowed the petitioner's father to meet the child on 16.08.2021. After the death of petitioner's father on 02.09.2021, the respondent even without attending the funeral rites, left to Chennai. The respondent deserted the petitioner from 14.03.2021. Even though the petitioner and her sister gone to Chennai on 25.10.2021 to the respondent's house, he quarreled with the petitioner and pushed her out of the house without showing the child. The respondent with a vengeance has deserted the child from the petitioner and not allowing her to meet the child. Hence, she has come forward with the original petition claiming custody of her minor son. The petitioner, being the mother and natural guardian of her minor son need the custody of the child for the upbringing of the child for his future prospects and pursue his dreams. Hence, this petition seeking custody of the minor son Adhithya Arunachalam till the disposal of the 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 ward. The respondent vehemently denies all the allegations in the petition. The petitioner is undergoing psychiatric treatment in Ashok Pillar, Chennai and she could sleep only after consuming prescribed medicines and she is incapable of discharging her household duties. The petitioner voluntarily left the matrimonial house on 14.03.2020 and stayed in her parental house at Nagercoil and

deliverable refused to cohabit with the respondent. Even the petitioner has initiated criminal proceedings in CC No.93/2023 before Additional Mahila Court, Nagercoil which ultimately culminated in quash proceedings. The divorce petition filed by respondent in OP.918/2021 before Sub Court, Poonamallee and restitution of conjugal rights filed by petitioner in OP.1316/2021 are still pending. The minor ward is in continuous, peaceful and uninterrupted custody for more than 4 years during which the child developed strong and emotional bonding with the respondent and with his grandparents and settled well in educational and social environment. The petitioner suppressed the material fact that minor wants to be with the petitioner rather than with respondent and the same was affirmed by the petitioner in RTI Doco.No.cd.No.98/DCAvd/RTI/2022 dated 24.03.2022. In the quash order passed by the Hon'ble High court, Madras in crl.O.P.(MD) No.1006 and 1019/2024 and 20589/2025 pleased to quash the proceedings in CC No.93/2023 on the file of Additional Mahila Court, Nagercoil. The original petition has reached final stage. No evidence has emerged during trial to show that the minor is exposed to danger, neglect or moral risk. The minor child has constantly secured G4 grade A Promotion from 3rd to 6th standard and maintained 100% attendance. He secured several distinctions including Topper in Robotics EI cards and Olympiad competitions during 12th Annual day held on 07.02.2026. He also received Holistic Award from disciplined conduct and numerous medals in State Level athletics and extracurricular activities. He

secured Entrepreneurship competition conducted by SA College of Arts and Science on 26.1.2026 and participated in national and State level competitions under his direct supervision. These records clearly establish regular supervision and stable upbringing. The respondent is employed in reputed organization for 19 years and working from home since Covid-19. Hence, he is utilizing the time upbringing and supervision of child. The minor resides in a joint family environment along with his aged grandparents. The family atmosphere is peaceful, disciplined and growth oriented. The child is now 12 years old and capable of forming an intelligent preference which deserves consideration. In guardianship petitions, paramount consideration is the child's welfare and not the rights of parties over the minor child as reiterated by Hon'ble Apex Court in catena of authorities. When the matter is at the verge of final adjudication, granting interim custody would virtually amount to granting the final relief itself and would render the main petition infructuous. It is settled principle that interim relief cannot be granted in a manner which would defeat or pre-empt the final adjudication, 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 interim custody of minor child Adhithya Arunachalam 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/mother seeking interim custody of her minor son Adhithya Arunachalam, aged 12 years.

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 custody of the her minor son, Adhithya Arunachalam and directing the respondent to hand over the minor child for permanent custody. The petitioner is none other than mother of the above minor ward and the respondent is the father.

8. On perusal of records and points put forth by both counsels, it is learnt that the petitioner and respondent are husband and wife. Out of their wedlock, one male Adhithya Arunachalam was born on 21.03.2014. It is the case of the petitioner that the respondent caused cruelty against her and driven out her from the matrimonial house in the month of 14.03.2021 and he had forcefully taken away the child into his custody and now living separately with the child for more than 5 years denies the custody of the child to the petitioner.

Per contra, the respondent accuses of the petitioner stating that she is taking psychiatric treatment having constant medication and living separately and she is not having any consideration for the welfare of the child and also leading a wayward life and his minor son also refused to go along with the petitioner. The petitioner voluntarily left the matrimonial house and living

separately and also the child is comfortable with the custody of the respondent.

9. Reasons for seeking interim custody of the child is that the respondent has denied the visit of the petitioner to her minor son with a ill intention to separate the petitioner from her minor son and now the child is deprived of the care and custody of the mother. Per contra, the respondent vehemently opposed the case of the petitioner, the petitioner never cared for the respondent or the child and voluntarily left the child and she has filed this petition only to harass the respondent and the child .

10. The main contention of the petitioner seeking custody of the minor child is that the respondent is not taking care of the child and forcefully taken away even though the child is affectionate towards the petitioner. On perusal of records, it shows that the marital relationship between the petitioner and the respondent is already strained and they are living separately from the year 2021. Litigations of divorce and conjugal rights are pending. Now, the petitioner, being mother of the minor child approached this Court seeking interim custody.

11. It is always good for the upbringing of the children with the love and affection of both the parents. 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 5 years have already passed since the child is separated from the petitioner, this Court wanted to have interaction with the minor Adhithya Arunachalam to ascertain his willingness for the plea of the petitioner to the interim custody of her minor

child. Accordingly, this Court interacted with the minor child on 18.03.2026. During the interaction, the minor son of the petitioner refused to accompany his mother, i.e. the petitioner herein. He feels comfortable in staying with the respondent/father. Thus, it appears that the child is happy with the custody of the respondent and not willing to accompany with the petitioner/mother for days together or under interim custody for a period of time.

12. The Hon'ble Supreme Court has time and again reiterated that in catena of judgments that welfare of the minor child is the paramount consideration in custody, guardianship, and visitation disputes, overriding parental rights or statutory claims, as held in the authority reported in **AIR 2019 SC 2318 (*Tejaswini Gaud vs Shekhar Jagdish Prasad Tewari*)** that

“13. ... the Court while deciding child custody cases in its inherent and general jurisdiction is not bound by the mere legal right of the parent or guardian. Though the provisions of the special statutes which govern the rights of the parents or guardians may be taken into consideration, there is nothing which can stand in the way of the Court exercising its parens patriae jurisdiction arising in such cases giving due weight to the circumstances such as a child's ordinary comfort, contentment, intellectual, moral and physical development, his health, education and general maintenance and the favourable surroundings. These cases have to be decided ultimately on the Court's view of the best interests of the child whose welfare requires that he be in custody of one parent or the other”

Thus, in respect of the custody of the minor ward, the Court has to first look into the willingness of the child to accompany with the parent and also the welfare of the minor ward is the paramount consideration in deciding such application.

13. Here, the minor ward is now aged 12 years old. He could even realize the strained relationship between the petitioner and the respondent. Even the minor son has expressed that the petitioner is exhibiting hostile attitude towards him. Thus, it could be construed that the minor child is now attained the stage of realizing his requirements as well as the circumstances now prevail in the family and to decide about his custody, and as such, he expressed that he is happy with the company of his father/respondent. Though the petitioner is mother of the minor ward, since the child himself who is now aged above 12 years having deliberately refused even to see the petitioner, considering the interaction this Court had with the minor ward, if the plea of the petitioner is allowed, the minor child would be put to hardships as he has no sign of willingness to accompany with his mother. The petitioner seeks interim custody till the disposal of the main original petition. Therefore, the plea of the petitioner with regard to interim custody of the child cannot be granted. Moreover, petitioner has not made out any adverse consequences over the custody of the child with the respondent, who is none other than the father and natural guardian of the minor ward.

14. In view of the discussions above, this Court comes to conclusion that present custody of the minor ward , with the respondent is not having any adverse consequences upon his minor son and the minor ward feel very comfortable with his father and also considering the fact that the minor son is refused to go into the custody of any other person other than the respondent, this Court cannot consider this petition seeking interim custody of the minor ward to the petitioner. Therefore, this Court is not inclined to entertain this petition and the same deserves to be dismissed.

In the result, this petition is dismissed. No costs.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 9th day of April, 2026

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner side witnesses & Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**