



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.08.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

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CRP.No.3833 of 2025

and CMP. No.20333 of 2025

Minor K.Thanmaya Sivani
Rep by her mother Rakshana next friend,
D.No.3/69 Klinayakanoor,
Singulipatti, Valagoundapatti Post,
Namakkal Taluk, Namakkal District. ... Petitioner
Vs.

Kumar ... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to issue direction, directing the learned Principal District Court, Namakkal to entertain and decide the petitioner's application for maintenance in I.A.SR.No.3496 of 2025 in G.W.O.P. No.72 of 2024 on the file of the Principal District Court, Namakkal.

For Petitioner : Mr. R.Prabakar

ORDER

This Civil Revision Petition is filed to entertain and decide the petitioner's application for maintenance in I.A.SR.No.3496 of 2025 in



G.W.O.P. No.72 of 2024 on the file of the Principal District Court,
Namakkal.

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2. Heard learned counsel for the petitioner Mr.R.Prabakar.

3. The petitioner is the minor, represented through his mother and guardian challenging the return of Application filed seeking maintenance pending Guardian OP. G.W.O.P. No.72 of 2024 before the learned Principal District Court, Namakkal. The learned counsel for the petitioner taking me through the averments in the affidavit would state that under Section 12 of the Guardians and Wards Act, 1890 (in short 'Act'), the petitioner is well within her rights to seek maintenance pending Guardian OP proceedings and I find that the I.A. was originally returned on 24.03.2025, raising a question regarding maintainability of the Application for maintenance pending a proceeding for appointment of Guardian under the Guardians and Wards Act. The petitioner has re-presented the said Application, but, however, the same has been returned again, on 09.06.2025, reiterating the previous return as to how the petition for maintenance is maintainable in a pending GWOP under the Guardians and Wards Act, 1890.



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4. The learned counsel would take me through the provisions of Section 12 of the Guardians and Wards Act, 1890 and the same is extracted for easy reference.

“12. Power to make interlocutory order for production of minor and interim protection of person and property

(1)The Court may direct that the person, if any, having the custody of the minor, shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (1) for her production shall require her to be produced in accordance with the customs and manners of the country.

(3)Nothing in this section shall authorise

(a)the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody with the consent of her parents, if any, or

(b)any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.”

5. He would therefore, referring to the provisions extracted herein above, contend that the interim protection would include seeking interim maintenance as well. He would also rely on the decisions of the Bombay High Court in *Sreenivasagopalan Ananthakrishna Vs. Meenakshi Tripurari*, in *W.P. No.4897 of 2014 dated 31.07.2015*, where the Bombay High Court



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Nagpur Bench held that Section 12(1) of the Guardians and Wards Act, has to be construed in a manner that would protect the minor and if, for such purpose, granting interim maintenance is warranted, the Courts would be empowered in that regard.

6. He would also place reliance decision of this Court in *Kumaraguru Vs. K.Mangala*, in CRP. Nos.5149 and 5150 of 2024 dated 22.01.2025, where this Court the following ratio laid down by the Bombay High Court in the above decision held that an Application for interim maintenance is maintainable in a pending Guardian Original Petition proceeding instituted under the Guardians and Wards Act. It is unfortunate that despite these decisions having been brought to the notice of the Trial Court, the Trial Court has not even considered the ratio laid down in these decisions, clearly holding that the application in question was maintainable. Without proper application of mind, the learned Judge has returned the OP once again, on 09.06.2025, stating that the petition is not maintainable.

7. In the light of the above, I am inclined to set aside the docket order dated 09.06.2025 in I.A.SR. No3496 of 2025 in GWOP. No.72 of 2024 and



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the Application shall be taken on file, if it is otherwise in order and shall be disposed within a period of eight (8) weeks from the date of receipt of the copy of the order.

8. Accordingly, this Civil Revision Petition is allowed. No costs.

Connected Miscellaneous Petition is also closed.

20.08.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

rkp

To

The Principal District Judge, Namakkal



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P.B.BALAJI.J.,
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