



O.P.No.632 of 2016

P.VELMURUGAN.,J

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This Original Petition has been filed by the petitioner/mother seeking permission to have the custody of the minor daughters namely C.Meena Kumari @ Meena and C.Nee Raja @ Naveena permanently, till they attain the age of majority.

2. Petitioner is the mother and respondent is the father of the minor children namely C.Meena Kumari @ Meena born on 06.05.2006 and C.Nee Raja @ Naveena born on 21.07.2010. The petitioner has filed this petition seeking custody of the minor daughters. Though notice was served on the respondent/father, he was absent all along and hence he was set ex-parte on 23.03.2022. Both the minor children are living with the respondent/father. The petitioner/mother seeks custody of the minor children. The only allegation against the respondent is that, since the petitioner is working as a Head Constable, the respondent left the minor children in his sister's house. Even the respondent did not allow the petitioner to see her minor children/daughters. Hence, she filed this petition seeking custody of the minor children.



3. Heard the learned counsel for the petitioner and perused the materials available on record.

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4. Admittedly, the petitioner and respondent are mother and father of minor children respectively. The only allegation made by the petitioner against the respondent is that he is living with their minor daughters in his sister's house and he is not allowing her to see her children and except that there are no adverse allegations made against the respondent. As per law, both mother and father are guardians for the minor child till they attain majority. The respondent is also working as Junior Assistant in Tamil Nadu Electricity Board and he is also an earning member and minor children are with the respondent all along. Therefore, the petitioner has not made out any case that the respondent/father was acting against the welfare and interest of the minor children.

5. It is a well settled proposition of law, that while deciding the petition filed under Section 25 of Guardians and Wards Act, the Court has to see the interest and welfare of the minor child, which is of paramount consideration. Unless the petitioner has made out a case that the respondent/father is acting against the interest and welfare of the children, the



custody of the minors from the respondent/father cannot be removed and exclusively handed over to the petitioner/mother. Since the father is also a natural guardian to the minor children, unless, the person who seeks relief, has established before the Court that the opposite party / (respondent herein) is acting against the welfare and interest of the minors that person (the petitioner herein) is not entitled to get relief of exclusive custody of the minors.

6. This Court finds that the petitioner has not made out any valuable grounds and reasons for handing over the custody of the minor children to her from the respondent/father from whom the custody has to be removed and handed over to the petitioner/mother. Hence, the petition is dismissed.

08.04.2022

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