

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947

OP (FC) NO. 163 OF 2025

AGAINST THE ORDER DATED 19.12.2024 IN IA 32/2024 IN OP

NO.1740 OF 2023 OF FAMILY COURT, NEYYATTINKARA

PETITIONER/PETITIONER:

MUHAMMED SHAFI. E., AGED 39 YEARS, S/O. EBRAHIM PILLAI,
SHAFI COTTAGE, NEAR JUMA MASJID, KALIAKKAVILAI,
KANYAKUMARI DISTRICT, TAMILNADU - 629153

SHAJIN S.HAMEED
P.M.SANEER
GISON ALIYAS

RESPONDENT/RESPONDENT:

AMINA. S., D/O. SULEKHA BEEVI, NELVARAVU HOUSE,
INCHIVILA, PARASSALA P.O., THIRUVANANTHAPURAM
DISTRICT., PIN - 695502

R.T.PRADEEP
NIRANJAN T.PRADEEP (K/001073/2024)

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION ON
02.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT****Devan Ramachandran, J.**

Even though there are various allegations, averments and imputations made and urged against each other by the parties in this Original Petition, we are spared of writing a long judgment because the parties are in consent to a substantial extent.

2. The petitioner - who is a father of two children aged 9 and 6 respectively, impugns Ext.P23 order of the learned Family Court, Thiruvananthapuram, since it has denied him their permanent custody, though granting him visitation over them on certain specified dates.

3. Sri.P.M.Saneer – appearing for the petitioner, argued that the children are very comfortable with his client, namely their father; and therefore, that the arrangement now made by the learned Family Court is in error.

4. Before we move forward, we record that both sides were present before us, along with the children, today pursuant to their offer to do so on 26.03.2025, when this matter was last



listed.

5. We interacted with the children and as rightly argued by Sri.P.M.Saneer, they had equal affection for the parents and did not show any specific preference between them, though indicating that they would like to continue permanently with their mother. Both the children were ready to be in the company of the father on any day, but the respondent - mother objected to them being given in overnight custody, saying that there are certain underlying issues which make her very uncomfortable.

6. We, therefore, put it to the parties as to how the time of the children can be shared by the parents, to which both of them agreed that every Saturday and Sunday the father can be allowed to remain in their interim custody from 10 a.m. till 5 p.m.; and that the place of exchange for this shall be the front gate of the residence of the mother.

7. As we have said in the prefatory paragraph, since the parties are in consent, we do not require to do anything more than to record the same and modify Ext.P23 accordingly.

In the afore circumstances, we allow this Original



Petition and alter the arrangement in Ext.P23 in the following manner:

(a) The custody of the children, pending the Original Petition before the learned Family Court, will be with the mother.

(b) The petitioner - father will be entitled to their interim custody from 10 a.m. till 5 p.m. every Saturday and Sunday henceforth; and the place of exchange, as agreed by the parties, shall be in front of the residential gate of the mother.

(c) We order that the afore arrangement continue for a minimum period of six months from today and depending upon the consent of the children and the changed circumstances, if any, we permit the petitioner to move the learned Family Court for overnight custody, if he is so interested, which will then be considered in terms of law. Needless to say, if the parties are to agree for any such arrangement even without going to Court, they will be free to do so, taking into account the welfare of the children.

It goes without saying that the learned Family Court will be at liberty to decide the Original Petition finally without



2025:KER:28181

OP (FC) NO. 163 OF 2025

5

being trammeled by the afore arrangement, or by any observation in this judgment.

Sd/- DEVAN RAMACHANDRAN

JUDGE

Sd/- M.B. SNEHALATHA

JUDGE

stu



2025:KER:28181

OP (FC) NO. 163 OF 2025

6

APPENDIX OF OP (FC) 163/2025

PETITIONER EXHIBITS

- Exhibit-P1 PHOTOCOPY OF THE PLAINT IN O.P.NO.152/2020
ON THE FILE OF THE FAMILY COURT,
THIRUVANANTHAPURAM.
- Exhibit-P2 PHOTOCOPY OF THE PETITION IN M.C.NO:26/2020
ON THE FILE OF THE FAMILY COURT,
THIRUVANANTHAPURAM.
- Exhibit-P3 PHOTOCOPY OF THE PETITION IN M.C.NO.07/2020
ON THE FILE OF THE JUDICIAL 1ST CLASS
MAGISTRATE COURT-II, NEYYATTINKARA.
- Exhibit-P4 PHOTOCOPY OF THE ORDER DATED 28/02/2020 IN
CRL.M.C.NO:1754/2020 OF THIS HONORABLE
COURT.
- Exhibit-P5 PHOTOCOPY OF THE PETITION IN O.P.
(G&W).NO:316/2020 ON THE FILE OF THE FAMILY
COURT, THIRUVANANTHAPURAM.
- Exhibit-P6 PHOTOCOPY OF THE PETITION I.A.NO:533/2020
IN O.P.(G&W).NO:316/2020 ON THE FILE OF THE
FAMILY COURT, THIRUVANANTHAPURAM.
- Exhibit-P7 PHOTOCOPY OF THE JUDGMENT DATED 12/03/2020
IN OP.(FC).NO.149/2020 OF THE HONORABLE
HIGH COURT OF KERALA.
- Exhibit-P8 PHOTOCOPY OF THE ORDER DATED 23/06/2020 IN
I.A.NO.533/2020 IN O.P.(G&W).NO.316/2020 OF
THE FAMILY COURT, THIRUVANANTHAPURAM.
- Exhibit-P9 PHOTOCOPY OF THE ORDER DATED 16/10/2020 IN
I.A.NO.1/2020 IN O.P.(G&W).NO.316/2020 OF
THE FAMILY COURT, THIRUVANANTHAPURAM.
- Exhibit-P10 PHOTOCOPY OF THE ORDER DATED 27/10/2021 IN



2025:KER:28181

OP (FC) NO. 163 OF 2025

7

I.A.NO.6/2021 IN O.P.NO.316/2020 OF THE
FAMILY COURT, THIRUVANANTHAPURAM.

Exhibit-P11 PHOTOCOPY OF THE PETITION DATED 20/11/2023
IN I.A.NO.7/2023 IN O.P.NO.1740/2023 ON THE
FILE OF THE FAMILY COURT, NEYYATTINKARA.

Exhibit-P12 PHOTOCOPY OF THE ORDER DATED 03/02/2024 IN
I.A.NO.7/2023 IN O.P.NO.1740/2023 OF THE
FAMILY COURT, NEYYATTINKARA.

Exhibit-P13 PHOTOCOPY OF THE PETITION DATED 30/01/2024
IN I.A.NO.10/2024 IN O.P. (G&W) .NO.1740/2023
OF THE FAMILY COURT, NEYYATTINKARA.

Exhibit-P14 PHOTOCOPY OF THE PETITION DATED 18/09/2024
I.A.NO.32/2024 IN O.P. (G&W) .NO.1740/2023 OF
THE FAMILY COURT, NEYYATTINKARA.

Exhibit-P15 PHOTOCOPY OF THE OBJECTION DATED 20/11/2024
IN I.A.NO.32/2024 IN O.P. (G&W) .NO.1740/2023
OF THE FAMILY COURT, NEYYATTINKARA.

Exhibit-P16 PHOTOCOPY OF THE PETITION DATED 18/09/2024
I.A.NO.33/2024 IN O.P. (G&W) .NO.1740/2023 ON
THE FILE OF THE FAMILY COURT,
NEYYATTINKARA.

Exhibit-P17 PHOTOCOPY OF THE OBJECTION DATED 20/11/2024
IN I.A.NO.33/2024 IN O.P. (G&W) .NO.1740/2023
ON THE FILE OF THE FAMILY COURT,
NEYYATTINKARA.

Exhibit-P18 PHOTOCOPY OF THE PETITION DATED 02/10/2024
I.A.NO.35/2024 IN O.P. (G&W) .NO.1740/2023 ON
THE FILE OF THE FAMILY COURT,
NEYYATTINKARA.

Exhibit-P19 PHOTOCOPY OF THE OBJECTION DATED 20/11/2024
IN I.A.NO.35/2024 IN O.P. (G&W) .NO.1740/2023
ON THE FILE OF THE FAMILY COURT,
NEYYATTINKARA.



2025:KER:28181

OP (FC) NO. 163 OF 2025

8

- Exhibit-P20** PHOTOCOPY OF THE PETITION DATED 19/11/2024
I.A.NO.36/2024 IN O.P.(G&W).NO.1740/2023 ON
THE FILE OF THE FAMILY COURT,
NEYATTINKARA.
- Exhibit-P21** PHOTOCOPY OF THE PETITION DATED 10/12/2024
I.A.NO.38/2024 IN O.P.(G&W).NO.1740/2023 ON
THE FILE OF THE FAMILY COURT,
NEYATTINKARA.
- Exhibit-P22** PHOTOCOPY OF THE OBJECTION DATED 16/12/2024
IN I.A.NO.38/2024 IN O.P.(G&W).NO.1740/2023
ON THE FILE OF THE FAMILY COURT,
NEYATTINKARA.
- Exhibit-P23** PHOTOCOPY OF THE COMMON ORDER DATED
19/12/2024 IN I.A.NO.32/2024,
I.A.NO.33/2024, I.A.NO.35/2024,
I.A.NO.36/2024 & I.A.NO.38/2024 IN
O.P.NO.1740/2023 OF THE FAMILY COURT,
NEYATTINKARA.