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**Order reserved on
20.09.2024**

**Order pronounced on
10.01.2025**

A.No. 6671 to 6674 of 2023
in
O.P.No.819 of 2023

RMT.TEEKAA RAMAN, J.

COMMON ORDER

The petitioner is the father of the minor children namely, Abigail Joanna Joshua (5 years) and Gabriella Jacqueline Joshua(3 years) and the respondent is the mother.

2. This petition is filed under Sections 7 & 25 of the Guardians and Wards Act read with Order XXI Rule 2 & 3 of the Original Side Rules in the matter of minors (1) Abigail Joanna Joshua (5 years) and (2) Gabriella Jacqueline Joshua(3 years).

3.For the sake of convenience the parties are referred to as father, mother, elder minor and younger minor.

4. The main OP was filed for custody of the minor who are



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now in custody of the mother at Thoothukudi.

A.No.6671 of 2024:

5. This applications is filed for a direction directing the respondent mother to give periodical access to the petitioner/father to the minor children over audio visual electronic media, pending disposal of the original petition.

A.No.6672 of 2024:

6. This application is filed for a direction to the respondent/mother to bring back the minor children to Chennai even wherefrom the respondent moved them by force and deceit alleged to have using police machinery.

A.No.6673 of 2024:

7. This application is filed for a direction to the respondent mother to bring back the minor children to Chennai and re-admit them in Alpha CBSE School, CIT Nagar, Chennai for further studies.

A.No.6674 of 2024:

8. This application is filed for grant of weekly visitation



rights to spend quality time with the children, till the disposal of the original petition.

9. The relationship of the parties are not in dispute. These four applications are filed for the relief as stated supra.

10. According to the petitioner/father the mother under the guise of the administration order of transfer passed by the Bank has taken the children from the matrimonial home from Chennai to Thoothukudi and hence he is seeking a direction to bring the children back to Chennai and to readmit in the very same school where they were studying previously. Since it is the middle of the academic year, taking note of the studies of the minors, I find that the application may be closed for the present. Accordingly, A.No.6673 of 2024 is closed.

A.No.6672 of 2024:

11. For an interim direction directing the respondent mother to bring the children back to Chennai on the footing that the respondent/mother had moved the children by deceit, force and using police machinery. The movement of the minor children by the respondent as alleged by the petitioner is disputed. Since it is disputed with the welfare



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of the children, taking note of the education of the children at Thoothukudi at the present academic year, I am not proposed to pass any order since the basic allegation is that the respondent/mother had moved to Thoothukudi and taken the children along with her by force and deceit. In the counter, it is specifically stated that the respondent/mother is working as a Manager in the Bank. Since an order of transfer was given by the Bank from Chennai to Thoothukudi, she has moved over to Thoothukudi and children have expressed to be with her and she taken them and admitted in the School at Thoothukudi and hence, I find that the allegation is to be tested by way of oral evidence and subject to the cross examination besides there is another development as could be discussed infra. Hence this application is also closed for the time being.

A.Nos.6671 & 6674 of 2024:

12. These applications for having periodical access to the minors over audio and visual electronic media pending disposal and for physical interaction to spend quality time during the week ends.

13. Heard the respective counsels representing the parties.



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14. The respondent/wife along with the minor children had appeared through video conferencing in the hearing on 16.08.2024 as directed by this Court on 12.08.2024. The first child is a special child and the second child is a normal child. The applicant/father was allowed to interact with the minor children in video conferencing about 15 minutes through video conference. Thereafter, I had interacted with the applicant as well as the respondent. The respondent mother alleges certain physical misbehaviour by the applicant father and on questioning the same, the applicant father denied the same.

15. By an order dated 16.08.2024, this Court has given visitation rights to the father for visiting the child at ADR Centre at Thoothukudi District Court on 24.08.2024. Since the counsel has expressed certain observation, this Court further directed the Secretary of the ADR Centre to depute a lady staff from the office or lady Advocate for making observation and send the report to this Court by 28.08.2024. The lady Advocate appointed by the legal aid ensure that the minor children are moving freely with the applicant without interference by the respondent/mother.



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16(a). On 29.08.2024 further interaction was allowed in the next Saturday on 14.09.2024 wherein the applicant's father was permitted to interact with the children between 10.30 and 12.30 a.m. In the meanwhile learned counsel for the petitioner/father could state that the psychiatric observation report are not furnished to them and hence this Court passed a judicial order to the Registry to comply with the copy application of the medical report sent by the Director, Institute of Mental Health, Kilpauk and to furnish copies to both the parties. After going through the psychological report dated 04.07.2024, issued by the clinical psychologist, Department of Clinical Psychology, Institute of Mental Health, wherein it is found that the mother is having conflict in the area of family, heterosexual relationship and self concept with underlying thought disturbance. Further point is also mentioned in the report that the mother felt that the applicant/father has distancing himself from her and her children after the death of the husband of the sister of the petitioner/husband.

16(b). In short, it is observed by the psychiatrist that after the sister-in-law's husband died, the father of the minor children have showing the special interest towards his family and it has created a



possessiveness on the respondent/mother.

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17. Admittedly, she is working as a Manager in a Nationalized Bank and she was transferred to Thoothukudi. As per the medical report, the father at present does not suffer from any psychiatric illness. The report of the institute of Mental Health, Kilpauk, Chennai the observation report indicates that Baby Gabriel Jacqueline Joshua does not have any psychopathology that need intervention and her intellectual function is above average. In the observation report of the said institution for the mother dated 04.07.2024, it is stated that frequent marital conflict with the husband which was increased after September, 2023, wherein she (mother) felt that her husband was distancing himself from her following the death of her sister-in-law's husband and she left the native place because of the professional transfer order passed by the Bank. The institute observation report with regard to the elder daughter Baby Abigal Joanna Joshua indicates that the childhood autism is made and advised to continue occupational therapy.

18. Taking note of the medical treatment being given by the mother to the minor special child at Thoothukudi and she is also



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employed in the Nationalized Bank and also considering the family circumstances that is existing at the matrimonial home, I find that interim visitation rights has to be granted to the father to meet the minor children only at Thoothukudi.

19. Accordingly, the following order is passed:

- i. Every Tuesday and Thursday between 7.00 and 8.00 p.m., father can have interaction with the minors through audio or video calls.
- ii. On every Saturday, the father/applicant can visit the children at ADR Centre, Thoothukudi between 10.30 a.m to 01.30 p.m. On every Saturday between 2.00 and 4.00 p.m, the father is permitted to take the children for lunch and also permitted to give chocolates and dress to the minor children.
- iii. On alternate weekend on Sundays, the applicant/father is permitted to accompany the children in the Churchat Thoothukudi in which the children were attached till the disposal of the original petition.



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iv. These two petitions in O.A.Nos.6671 and 6674 of 2024 are ordered accordingly.

10.01.2025

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RMT.TEEKAA RAMAN, J.

PJL

Pre delivery Common Order made in
A.No. 6671 to 6674 of 2023
in
O.P.No.819 of 2023

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