



C.M.A(MD)No.610 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05-11-2025

CORAM

THE HONOURABLE **MR JUSTICE P.VELMURUGAN**
AND
THE HONOURABLE **MRS JUSTICE L.VICTORIA GOWRI**

C.M.A(MD) No.610 of 2021
and
CMP(MD)No.5901 of 2021

Raja Sathaiah : Appellant/Petitioner

Vs.

1.Mohandas
2.Vijayasooria : Respondents/Respondents

Prayer:- This Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, against the judgment and decree, dated 22/03/2021 made in GWOP No.09 of 2019 on the file of the Family Court, Ramanathapuram.

For Appellant : Mr.J.Anandkumar

For Respondents : Mr.V.Sakthivel



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J U D G M E N T

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(Judgment of the Court was made by the Hon'ble **P.VELMURUGAN. J.**)

The appellant as petitioner filed a petition invoking Section 25 of the Guardians and Wards Act, 1890, in GWOP No.09 of 2019 before the Family Court, Ramanathapuram, for custody of the minor child. The said petition was dismissed by the Family Court, Ramanathapuram, dated 22/03/2021. Challenging the same, the father of the minor child, preferred this Civil Miscellaneous Appeal.

2.The learned counsel for the appellant/husband would submit that both the appellant and her wife namely the second respondent herein got divorce and now, the minor child is with her maternal grand-father and neither, the minor child is with the father or mother, who are stated to be the natural guardian by biological and now, the minor child is living with the maternal grand-father, which is against the natural conduct. He would further submit that the maternal grand-father of the minor child filed a petition for maintenance, since he could not maintain the minor child, however, for one reason or other, subsequently, he not-pressed the said application and now, the minor child is with him. Since the appellant is



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the father of the minor child, he is the natural guardian of the minor child. However, the learned Family Court failed to consider the fact that the minor child is not with her mother and the mother got second marriage and living with the new spouse and the minor child is only with the maternal grand-father, who is the old age person and so, either the minor child should be with his father or mother. Since both the mother and the father of the minor child are alive, the impugned order of the Family Court has to be set aside and the appeal is to be allowed.

3.The learned counsel for the respondents would submit that the appellant got second marriage and having children through the second marriage and when the minor child was brought before the Family Court, she did not show any interest to go with the father, who is the appellant herein and further, both the father and mother got second marriage and living happily with their new spouse with children.

4.It is seen that both the father and mother of the minor child without thinking about the future of the minor child, got second marriage and living separately with their respective spouse. Therefore, under these circumstances, in the absence of any incriminating materials levelled



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against the maternal grand-father with whom the minor child is living happily, this Court is not inclined to interfere with the impugned order passed by the Family Court, Ramanathapuram.

5.In the result, this Civil Miscellaneous Appeal is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

(P.V., J.) (L.V.G., J.)
05-11-2025

Index:Yes/No
Internet:Yes/No
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To,

The Family Court,
Ramanathapuram.



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**P.VELMURUGAN,J
and**

L.VICTORIA GOWRI.,J

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