

Arumuga Mudali Vs. Vibaraghava Mudali

Arumuga Mudali Vs. Vibaraghava Mudali

SooperKanoon Citation : sooperkanoon.com/785825

Court : Chennai

Decided On : Oct-30-1900

Reported in : (1901)ILR24Mad255

Judge : Subramania Ayyar and ;Davies, JJ.

Appellant : Arumuga Mudali

Respondent : Vibaraghava Mudali

Judgement :

1. There is no doubt, according to the authorities to which our attention has been drawn, that the husband is the legal guardian of his wife from the moments of the marriage whether the marriage is consummated or not. The real question in this case is whether the husband is entitled to the custody of his wife as against the parents when she has not yet attained her maturity, no special reason having been shown why the girl should be taken from their custody. As found by both the Courts below, it is the general practice among the Hindu community in this Presidency for a girl-wife to be left with her parents until she attains puberty. The case of *Ramaiah v. Condammal Sudder* Decisions of 1858 p. 154 is a direct authority on this point. To hold that the husband is not entitled by general custom to the custody of this immature wife as against the parents, does not really detract from his general right as her legal guardian. Even in the matter of custody he would be entitled to it, if it should appear necessary in the interests of the girl, but in the absence of evidence to the contrary, her custody by the parents is

presumably preferential, which is no doubt the foundation for the general custom, In this view we think the Lower Courts were right in dismissing the plaintiff's suit for the recovery of his child-wife.

2. The second appeal is dismissed with costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com