



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 10TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

CIVIL PETITION NO.100174 OF 2025

BETWEEN:

SMT. SWAPNA W/O. RAHUL ARAWADE,
AGE: 37 YEARS, OCC. HOUSEHOLD,
NOW RESIDING AT: R/O. C/O. MOHANLAL JAIN,
H.NO. 180, VASAVI NAGAR, NEAR SHAKAPUR ROAD,
KUSHTAGI, DIST. KOPPAL-583277.

...PETITIONER

(BY SRI. PRANAV UMESH BADAGI, ADVOCATE)

AND:

SHRI RAHUL S/O. RAJEEV ARWADE,
AGE: 39 YEARS, OCC. ADVOCATE,
R/O. H.NO. 24, MAIN ROAD,
KOGILAGERI, POST ARWATAGI,
TQ. ALANVAR, DIST. DHARWAD-580008.

...RESPONDENT

(BY SRI. SHIVARAJ C. BELLAKKI, ADVOCATE)

THIS CIVIL PETITION IS FILED U/SEC.24 OF CPC, PRAYING TO
PASS AN ORDER TO TRANSFER G AND W NO.11/2024, PENDING ON
THE FILE OF PRINCIPAL JUDGE, FAMILY COURT, DHARWAD, FILED BY
RESPONDENT HEREIN, TO THE COURT OF PRINCIPAL SENIOR CIVIL
JUDGE, KUSHTAGI TO MEET THE ENDS OF JUSTICE.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

YASHAVANT
NARAYANKAR

Digitally signed by
YASHAVANT
NARAYANKAR
Date: 2025.12.12
11:50:31 +0530



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE C M JOSHI)

Heard the learned counsel for the petitioner and the respondent.

2. This petition is filed by the wife of the respondent seeking transfer of G & W Case No.11/2024 from the Court of the Principal Judge, Family Court, Dharwad to the Court of Principal Senior Civil Judge, Kustagi.

3. The petitioner contends that the respondent herein has filed a petition under Section 7 read with Section 10 of the Guardian and Wards Act, seeking custody of the child born out of the wedlock of the petitioner and the respondent. The petitioner states that she is presently residing at her parents' house at Kushtagi along with her seven year old child. It is contended that earlier the petitioner was staying with the child at Dharwad and now due to compelling reasons, she has shifted her residence to Kushtagi and is living with her parents. It is contended that the child born to the petitioner and respondent has also been admitted to Haripriya English Medium School at Kushtagi.



Therefore, it is her contention that the G & W Case No.11/2024 pending before the Principal Judge, Family Court, Dharwad be transferred to the Court at Kushtagi since it is difficult for her to travel around 150 km along with her child and continuing of the matter at Family Court at Dharwad would be detrimental to the interest of the child and as such she has sought for allowing the petition.

4. The respondent has filed objections denying the contentions of the petitioner as unsustainable in law. In the objection statement, apart from denying the averments of the petition, the merit of the G & W Case No.11/2024 has also been stated by the respondent. It is contended that the petitioner has left the child at Kushtagi and she is residing elsewhere. It is contended that the petitioner is not allowing the respondent to visit the child and she is deliberately avoiding the meeting of the father with child. It is submitted that the petitioner has also filed a Criminal petition under Section 144 of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 for maintenance. There were several complaints filed before the police to harass the respondent alleging that the respondent had inhumanly treated



her. It is contended that it would be beneficial for the child as well as the respondent to retain the G & W Case No.11/2024 at Family Court at Dharwad. He also submits that there is no District Court at Kushtagi and District Court is situated at Koppal.

5. Learned counsel appearing for the petitioner would submit that the petitioner has filed petition for transfer Crl.Misc.No.149/2024 from Dharwad to any of the Court at Kushtagi and the transfer petition is pending before this Court. He submits that if there is no competent Court at Kushtagi, the matter may be transferred to the Family Court at Koppal. He submits that the distance between Kushtagi and Dharwad is about 150 km, and the distance between Kushtagi and Koppal is about 50 km.

6. In view of the above submissions, it is pertinent to note that the welfare of the child has to be kept in view while deciding any matter concerning the custody of the child. In support of the contention of the petitioner, the schooling certificate of the child at Haripriya English Medium School in Kushtagi is produced. This document shows that the child has been admitted to the school at Kushtagi. The said fact is also



admitted by the respondent. Further, the petitioner has produced her Aadhaar Card showing that she is the resident of Kushtagi. It is pertinent to note that the child is aged about 7 years studying at 1st standard and in a matter involving custody and visitation rights, the preferable Court would be the Court which is nearer to the residence of the child. Apart from that the deciding of the custody of the child and visitation rights there would be need for interaction with the child also. Keeping in mind this aspect, the Courts which are in the vicinity or at the closest distance from the residence of the child would be preferable. In that view of the matter, there is substance in the contention of the learned counsel for the petitioner. Since the competent Court which could deal with G & W Case No.11/2024 is not situated at Kushtagi, it would be appropriate to transfer the petition to the Family Court at Koppal. In that view of the matter, the petition deserves to be allowed. Hence, the following:

ORDER

- (i) The petition is allowed.
- (ii) The G & W Case No.11/2024 pending on the file of the Principal Judge, Family Court at



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Dharwad is hereby withdrawn and is transferred to the Principal Judge, Family Court at Koppal for disposal in accordance with law.

(iii) The transferor Court is at liberty to fix the date of appearance of the parties before the transferee Court, without fresh issuance of notice.

(iv) Intimate both the Courts accordingly.

SD/-
(C M JOSHI)
JUDGE

YAN
CT:PA
LIST NO.: 1 SL NO.: 63