

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF APRIL 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.7698 OF 2026 (GM-FC)

BETWEEN:

SASTA RAVI TEJA MYLAVARAPU
AGED 34 YEARS
S/O MYLAVARAPU
VENKATESHWARA RAO
R/A 10/2,
BELURU BASAVANAHALLI
SOMWARPET TQ,
BELUR BASAVANAHALLI
KODAGU
KARNATAKA - 571 236.

...PETITIONER

(BY SRI. A MAHESH CHOWDHARY.,ADVOCATE)

AND:

MYLAVARAPU
BABY DIVYA SRI
W/O SASTA RAVI TEJA MYLAVARAPU
AGED ABOUT 23 YEARS
R/T 4-14-11
SUBBARAO PETA
TADEPALLIGUDEM
NEAR JHANSI RANI HOSPITAL
TADEPALLIGUDEM
WEST GIDAVERI
ANDHRA PRADESH 534101

CURRENTLY RESIDING AT

C/O SANKU SURYA NARAYANA
DOOR NO. 2-19/1
RAMALAYAM VEEDI
URADALLAPELEM
ATILLI MANDALAY
WEST GODAVERI DISTRICT
ANDHRA PRADESH 534134

...RESPONDENT

(RESPONDENT SERVED THROUGH HAND SUMMONS)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY DIRECTION TO QUASH THE IMPUGNED ORDER DATED 27.02.2026 PASSED IN G AND WC NO. 2/2025 BY THE HONBLE PRINCIPAL DISTRICT AND SESSIONS JUDGE AT SOMWERPET, KODAGU, REJECTING THE PETITIONERS APPLICATION NO.2 FILED UNDER SECTION 12 OF THE GUARDIANS AND WARDS ACT, 1890 READ WITH SECTION 151 OF THE CODE OF CIVIL PROCEDURE VIDE ANNEXURE - A AS THE SAME IS WITHOUT APPLICATION OF MIND, ARBITRARY AND BAD IN THE EYES OF LAW AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 23.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

The present writ petition is filed seeking issuance of a writ of certiorari to quash the order dated 27.02.2026 passed in G & WC No.2/2025 by the Principal District and Sessions Judge at Somwarpet, Kodagu, ('the Family Court' for short) whereby I.A.No.2 filed under Section 12 of the Guardians and Wards Act, 1890 read with Section 151 of the Code of Civil Procedure seeking interim custody of the minor child came to be rejected.

2. The petitioner herein is the husband and the respondent herein is the wife.

3. The brief facts of the case are that:-

The petitioner and the respondent are husband and wife, whose marriage was solemnised on 06.01.2021 at Tadepalligudem, Andhra Pradesh, in accordance with customary rites and rituals. Following the marriage, the parties resided together at BelurKasavanahalli, Somwarpet, Kodagu District, and it is stated that there was a mutual understanding that the petitioner's parents would reside along with them in the matrimonial house.

4. Out of the wedlock, a male child was born on 09.01.2023 at Cloud Nine Hospital, Bellandur, Bengaluru, namely Mylavarapu Harihara Dharma Saasta. It is the case of the petitioner that on 24.01.2024, after celebrating the birthday of the minor child, the respondent was dropped at her parental home, and on 25.01.2024, upon his request due to illness, she returned to the matrimonial home along with the child. However, on 27.01.2024, the respondent left the matrimonial home along with the minor child without prior intimation, leaving behind a voice message, and has since been residing at her parental home.

5. It is further stated that the petitioner was thereafter denied access to the minor child, which constrained him to institute proceedings on 28.03.2025 under the Guardians and Wards Act, 1890 before the Principal District Judge, Kodagu at Madikeri in G & WC No.2/2025 seeking custody. In the said proceedings, the petitioner filed an application under Section 12 of the Act read with Section 151 CPC seeking interim custody. After issuance of notice on 26.04.2025, filing of objections by the respondent on 04.11.2025, and submission of written arguments on 07.02.2026, the Trial Court, by order dated 27.02.2026, rejected the said application.

6. The impugned order dated 27.02.2026 passed by the Trial Court in G & WC No.2/2025 discloses that, upon consideration of the material on record, the Court held that the paramount consideration is the welfare of the minor child and not the rights of the parents. The Family Court observed that the minor child, born on 09.01.2023, is of tender age and has been in the continuous custody of the mother since birth, thereby establishing emotional bonding and attachment, and is primarily dependent on her for day-to-day care. While taking note of the contentions raised by the petitioner, including allegations regarding financial capacity and lack of vaccination, the Trial Court held that such grounds were not sufficient to grant interim custody and that the mother is better suited to care for a child of such tender age. The Court further concluded that grant of interim custody would cause hardship to the minor child and the mother, and accordingly rejected the application filed under Section 12 of the Guardians and Wards Act, 1890 read with Section 151 of the Code of Civil Procedure, notwithstanding the finding recorded on the point for consideration.

7. The learned counsel for the petitioner would contend that the order is non-speaking and has been passed

without assigning cogent reasons and without examining the welfare parameters mandated under Section 12 of the Guardians and Wards Act, 1890. Further, the Family Court has erred in proceeding on a general presumption in favour of the mother without undertaking any comparative assessment of the parental circumstances. The petitioner asserts that his financial stability, caregiving capacity, and the conduct of the respondent, including unilateral removal of the child and alleged neglect of medical needs, have not been considered. It is also urged that denial of even interim access or visitation defeats the object of the statute and results in alienation of the minor child from the father.

8. It is also contended that the Family Court has misdirected itself by treating the application for interim custody as a final adjudication and has failed to consider alternative arrangements such as visitation or shared custody. According to the petitioner, the impugned order, if allowed to stand, would cause irreparable harm to both the petitioner and the minor child by depriving the child of paternal care and guidance.

9. Heard learned counsel for the petitioner.

10. Having considered the contentions advanced and perused the material on record, it is observed that the scope of interference under Article 226 of the Constitution of India in matters arising out of interlocutory orders passed under Section 12 of the Guardians and Wards Act is limited. Unless the order is shown to be perverse, without jurisdiction, or contrary to the settled principles governing the welfare of the child, interference is not warranted.

11. In the present case, the Trial Court has recorded that the paramount consideration is the welfare of the minor child. It has taken into account that the child, born on 09.01.2023, is of tender age and has been in the custody of the mother since birth. The finding that the child is dependent on the mother for day-to-day needs and has developed emotional bonding with her cannot be said to be arbitrary or contrary to law.

12. The contention of the petitioner regarding non-consideration of certain aspects, including financial capacity and other allegations, in the considered view of this Court, pertains to matters which are to be adjudicated in detail during the trial of the main petition. The impugned order being an interlocutory

order, the Trial Court has exercised its discretion based on the age of the child, the existing custodial arrangement and in accordance with the Child Access & Custody Guidelines Parenting Plan, 2025 by the Calcutta High Court.

13. Insofar as the grievance regarding denial of interim custody is concerned, it is to be noted that the Trial Court has exercised its discretion keeping in view the welfare of the child. Merely because another view is possible, this Court would not substitute its own discretion in exercise of writ jurisdiction.

14. Though it is contended that there exists inconsistency in the impugned order, the ultimate conclusion of the Trial Court in declining interim custody is founded on the welfare of the minor child. Such inconsistency, in the facts and circumstances of the case, does not vitiate the order so as to warrant interference under Article 226 of the Constitution of India.

15. It is also relevant to note that the rights of the petitioner are not foreclosed, as the main petition is pending adjudication, and the Trial Court has already posted the matter for petitioner's evidence on 01.04.2026. The petitioner is at liberty to establish his case on merits before the Trial Court.

16. For the aforesaid reasons, this Court does not find any ground to interfere with the impugned order dated 27.02.2026 passed in G & WC No.2/2025.

17. In view of the foregoing discussions, this Court proceeds to pass the following :-

ORDER

- (i) The writ petition is ***dismissed.***
- (ii) The order dated 27.02.2026 on I.A.No.2 in G & WC No.2/2025 passed by the Principal District and Sessions Judge at Somwarpet, Kodagu, is hereby confirmed.
- (iii) No order as to costs.

**SD/-
(DR.K.MANMADHA RAO)
JUDGE**

bnv