IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.24492 OF 2025 (GM-FC)

BETWEEN:

MR. ANOOP SUNDARAM
S/O V. SUNDARAM
AGED ABOUT 40 YEARS
RESIDING AT: NO.310,
J.C BLOCK,
M J LIFESTYLE ASTYLIEN
OFF HOSA ROAD,
CENTRAL JAIL ROAD
CHOODASANDRA
BANGALORE,
KARNATAKA 560 099.

…PETITIONER

(BY SMT. RASHMI GEORGE.,ADVOCATE)

AND:

MRS. AMRUTHAVENI VISHWANATHAN
D/O B. VALSALAKUMARI
AGED ABOUT 35 YEARS
RESIDING AT: THIRUMALABHAGOM PO,
KUTHIATHODE, ALAPPUZHA,
KERALA 688 540.

…RESPONDENT

(BY SMT. ASHA R.,ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED COMMON ORDER DATED 06/06/2025 PASSED BY THE HONBLE III ADDL. SENIOR CIVIL JUDGE, IN THE INTERLOCUTORY APPLICATIONS IA NO. 6 IN G AND WC. NO. 115 /2023 PRODUCED AS ANNEXURE –A AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

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

CAV ORDER

This writ petition is directed against the order dated 06.06.2025 passed on I.A.No.6 in G & WC No.115/2023 by the Court of the III Additional Senior Civil Judge, Bangalore Rural District at Bengaluru (‘the Family Court’ for short), whereby the application filed by the petitioner under Section 12 of the Guardians and Wards Act, 1890 read with Section 10 of the Family Courts Act and Section 151 of CPC, seeking interim custody of the minor child, came to be partly allowed.

2. The petitioner-husband/respondent-wife herein is the petitioner/respondent before the Family Court.

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

The petitioner and the respondent are the husband and wife and are parties to G & WC No.115/2023. Out of their wedlock, minor son, Master Ankit, was born on 21.10.2014 and is presently aged about 11 years. It is the case of the petitioner that the respondent left the matrimonial home in August 2020 and shifted to her mother’s residence along with the minor child

without any justifiable cause. It is further stated that despite efforts made by the petitioner between August 2020 and December 2020 to bring about reconciliation, the respondent remained unwilling, particularly when petitioner failed to migrate to Sweden and provide high standard of life to European standards to which the petitioner declined and resulted in filing of G & WC petition.

4. The petitioner, who is employed as a Principal Electrical Design Engineer at INFINEON TECHNOLOGIES, Bangalore, earning more than Rs.1,50,000/- per month, asserts that he has continued to provide financial support by arranging rental accommodation, paying rent, and meeting all expenses of the respondent and the child. It is alleged that despite such support, the respondent restricted access to the child and demanded monies even for limited visitation. It is also stated that the respondent travelled to Dubai in February 2021 along with the child when the child was aged about 7 years, and certain allegations have been made regarding her association with one Mr. Sandeep Nair. It is further stated that the respondent has strained relations with her own mother and sister.

5. It is further the case of the petitioner that the respondent shifted residence again, for which he arranged alternate accommodation and admitted the child to Ebenezer International School in Kerala by bearing all expenses. Despite the same, the petitioner was allegedly denied access to the child both at the residence and at the school. The respondent, though having entered appearance through counsel, who is also representing her in M.C.No.355/2020, has not filed objections either to the main petition or to any interlocutory applications.

6. The petitioner filed I.A.No.1 on 21.12.2023 seeking visitation rights, on which no orders have been passed till date. On the same day, I.A.No.2 was filed seeking to restrain the respondent from removing the child from the jurisdiction of the Court, and the Family Court, by order dated 19.10.2024, granted such restraint. Thereafter, the petitioner filed I.A.No.6 on 04.01.2025 seeking interim custody of the minor child. It is not in dispute that the respondent did not file objections nor advance arguments in respect of the said application.

7. The Family Court, by the impugned order dated 06.06.2025, after noticing that the respondent had not filed objections, proceeded to consider the application on the basis of the pleadings and affidavit of the petitioner. The Family

Court observed that the relationship between the parties and the birth of the minor child on 21.10.2014 were not in dispute, and that the child, a school-going boy, was in the custody of the respondent. The Family Court further observed that the allegations made by the petitioner required trial and that no conclusive finding could be recorded at that stage.

8. The Family Court also observed that due to personal disputes between the parties, the child should not be deprived of the love and affection of either parent, and that the father ought not to be denied such opportunity. In the absence of objections from the respondent, no strong reasons were placed on record to reject the application in entirety. However, taking into consideration the present education of the child and the necessity of adjudication of allegations through trial, the Family Court granted interim custody till disposal of the petition.

9. Accordingly, the Family Court partly allowed I.A.No.6 and granted custody of the minor child to the petitioner on every Sunday and public holidays from 10:00 AM to 8:00 PM, with directions regarding handing over and return of the child. The petitioner contends that the said arrangement amounts only to extended visitation and not meaningful custody.

10. It is further the grievance of the petitioner that upon attempting to secure compliance of the order dated 06.06.2025, he came to know from the Memo of Facts filed in M.C.No.355/2020 that the respondent had shifted to Trivandrum, Kerala, along with the minor child, allegedly in violation of the order dated 19.10.2024. It is also stated that the petitioner has not seen the child for approximately 20 months.

11. The learned counsel appearing for the petitioner-husband contends that the order is cryptic and non-speaking, and that the Family Court has failed to consider the pleadings, submissions, and materials placed on record. It is further contended that the Family Court has not taken into account the conduct of the respondent in not filing objections to the application despite entering appearance and contesting proceedings in MC No.355/2020. It is also urged that the sole reasoning assigned by the Family Court, namely, consideration of the present education of the child and the need for trial, is insufficient to deny interim custody, particularly in the absence of any opposition from the respondent. The petitioner further contends that he, being the natural guardian under Section 6 of the Hindu Minority and Guardianship Act, is entitled to custody

and is willing to bear all expenses for the child's education and welfare.

12. The petitioner has also raised contentions regarding alleged parental alienation, contending that the respondent has been influencing the child against him and denying him meaningful access, which, according to the petitioner, is detrimental to the welfare of the child. It is further contended that the child, aged about 11 years, is at a formative stage and is entitled to the care and affection of both parents. It is also contended that the respondent, by allegedly removing the child to Trivandrum, Kerala, has violated the order dated 19.10.2024, and that continued denial of access would result in estrangement between the father and the child, adversely affecting the child's welfare. The petitioner further expresses apprehension that attempts may be made to falsely implicate him if he seeks to meet the child.

13. The respondent has filed statement of objections contending that the petitioner has challenged the impugned order dated 06.06.2025 passed on I.A.No.6 in G & WC No.115/2023, while also seeking expanded interim custody of the minor child during all weekends and 50% of vacations and festivals. It is stated that the petitioner had earlier instituted

M.C.No.355/2020 under Section 13(1)(i-a) of the Hindu Marriage Act seeking dissolution of marriage solemnized on 29.03.2012 at Sri Krishna Temple, Mahe, Puducherry, and thereafter filed G & WC No.115/2023 under the Guardians and Wards Act, which proceedings, according to the respondent, are initiated only to harass her and the minor child.

14. The respondent further contends that she is a B.Tech graduate who was employed as an Assistant Engineer Trainee in the Kerala State Pollution Control Board, and had resigned from her Government employment to relocate to Bengaluru after marriage, sacrificing her career prospects to preserve the matrimonial relationship. It is her case that she made sincere efforts to maintain cordial relations and discharge her responsibilities as a dutiful wife and daughter-in-law, including taking care of the petitioner's mother and grandmother who were suffering from serious medical conditions. However, she alleges that she was subjected to continuous mental and physical cruelty by the petitioner, whose conduct was erratic and emotionally unstable. Further, the petitioner was undergoing treatment for severe anxiety and depression at NIMHANS for over five years, which fact was not

disclosed at the time of marriage and that his condition contributed to the strained matrimonial relationship.

15. It is further contended that during pregnancy, the respondent was not provided adequate support and was burdened with household responsibilities, including care of the petitioner's ailing family members, and was even subjected to pressure to terminate the pregnancy. The respondent alleges that the petitioner exhibited unreasonable suspicion regarding her character, falsely accusing her of extramarital relationships, including with one Mr. Sandeep Nair, which she categorically denies, stating that he is only a family friend. It is further stated that due to continuous abuse and hostile environment, the respondent was compelled to shift to her maternal home in order to safeguard her well-being and that of the minor child, though she made attempts at reconciliation, which were unsuccessful.

16. The respondent further contends that she has been the primary caregiver of the minor child and has ensured his overall development. It is stated that the minor child has excelled in academics and extracurricular activities, having participated in several sports and competitions across cities including Hyderabad, Chennai, Bengaluru, and Kochi, and has

achieved distinction as a top-ranked speedcuber. It is further submitted that she relocated to Trivandrum, Kerala in April 2025 upon securing employment as a primary school teacher in an International Baccalaureate school, which enabled better educational opportunities for the child at minimal cost. Such relocation was necessitated by financial constraints and was effected prior to the impugned order dated 06.06.2025.

17. The respondent further submits that the petitioner has been largely absent in the day-to-day life of the minor child and that his mental condition and alleged temperamental issues have instilled fear in the child. It is contended that granting overnight or extended custody to the petitioner would adversely affect the welfare of the minor child. The respondent asserts that she has single-handedly taken care of the child's physical, emotional, and educational needs, and that the petitioner is not in a position to provide a stable and safe environment.

18. Heard learned counsel appearing on either side.

19. Upon hearing the learned counsel appearing for the parties and on perusal of the material on record, this Court finds that certain foundational facts are not in dispute, namely, the marital relationship between the parties, the birth of the

minor child on 21.10.2014, the pendency of G & WC No.115/2023, and that the minor child is presently in the custody of the respondent-mother and pursuing his education. It is also not in dispute that the petitioner had filed I.A. No.6 before the Family Court under Section 12 of the Guardians and Wards Act, 1890 read with Section 10 of the Family Courts Act and Section 151 of CPC seeking interim custody of the minor child, and the Family Court, by the impugned order, has granted limited interim custody of the minor son, Master Ankit. on every Sunday and public holidays of the school from 10.00 AM to 8.00 PM till disposal of the G & WC petition.

20. Insofar as the grievance urged in the present writ petition is concerned, though the petitioner seeks enlargement of custodial rights, including custody during weekends and for 50% of school vacations and festivals, it is to be noticed that such reliefs were not specifically sought before the Family Court in I.A.No.6. The scope of consideration before the Family Court was confined to the prayer for interim custody alone. In that view of the matter, this Court is of the considered opinion that such reliefs, not having been sought before the Family Court, would not be appropriate to examine for the first time in the present petition under supervisory jurisdiction.

21. Nevertheless, having regard to the paramount consideration of the welfare of the minor child and the necessity of ensuring meaningful access to both parents, this Court deems it appropriate to reserve liberty to the petitioner to approach the Family Court by filing an appropriate application seeking modification or enlargement of visitation/custodial arrangements, including custody during school vacations and other appropriate periods. If such an application is filed, the Family Court shall consider and dispose of the same as expeditiously as possible, in accordance with law, bearing in mind the welfare of the child and the settled principles governing visitation and shared parenting.

22. In view of the above, the writ petition stands ***disposed of*** reserving liberty to the petitioner to approach the Family Court by filing appropriate application seeking interim custody of the child during all weekends and 50% of all the vacations and festivals. If such an application is filed, the Family Court shall consider in accordance with the Child Access & Custody Guidelines Parenting Plan 2025 by the Hon'ble High Court at Culcutta and dispose of the same as expeditiously as possible, in accordance with law.

Accordingly, the writ petition is ***disposed of*** with the liberty as stated above.

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

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