



CNR: KAHC010707572025

NC: 2026:KHC:39919-DB
MFA No. 8077 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 8077 OF 2025 (GW)

BETWEEN:

SMT. SUREKHA,
W/O B.M. GOVINDA GOWDA,
D/O KRISHNAPPA,
AGED ABOUT 38 YEARS,
R/AT BHATRAHALLI VILLAGE,
HUTHUR HOBLI, KOLAR TALUK AND
DISTRICT - 563 103.

...APPELLANT

(BY SRI. SACHIN B S., ADVOCATE)

AND:

1. SRI. B.M. GOVINDA GOWDA,
S/O LATE MUNI NANJAPPA,
AGED ABOUT 43 YEARS,
WORKING AS BANK MANAGER,
HDFC BANK, KOLAR BRANCH,
R/AT BANDURU KRISHNAPURA VILLAGE,
KEMBODI POST,
KOLAR TALUK - 563 103.
2. KUMARI. ESHA G GOWDA,
D/O B.N. GOVINDA GOWDA,
AGED ABOUT 8 YEARS,

Digitally
signed by
REKHA R
Location:
High
Court of
Karnataka



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R/AT BHATRAHALLI VILLAGE,
HUTHUR HOBLI,
KOLAR TALUK AND
DISTRICT - 563 103.

...RESPONDENTS

(BY SRI. GANESH G.G. ADVOCATE)

THIS MFA IS FILED UNDER SECTION 47(a) OF GUARDIANS AND WARDS ACT, AGAINST THE JUDGMENT AND DECREE DATED:10.10.2025 PASSED IN G AND WC.NO.9/2022 ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT, KOLAR, ALLOWING THE PETITION FILED U/S.7(b) AND SECTION 25 OF THE GUARDIANS AND WARDS ACT, 1890 R/W SECTION 7 (1)(g) OF THE FAMILY COURTS ACT, 1984.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

This appeal under Section 47(A) of the Guardians and Wards Act, 1890¹, by the respondent - Mother, assailing the Judgment and Decree dated 10.10.2025,

¹ 'the G & WC Act,' for short



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passed by the Prl. Judge Family Court, Kolar² in G & WC No.9/2022.

2. Under the impugned order, the Family Court allowed the petition filed by the petitioner - father under Section 7(b) and Section 25 of the Guardians and Wards Act, 1890 r/w Section 7(1)(g) of the Family Courts Act, 1984, seeking custody of the minor Ward Kumari Esha G.Gowda, thereby directed the respondent - mother to handover the custody of Ward - Kum.Esha G.Gowda to the custody of petitioner - father after lapse of 60 days from the date of the judgment, reserving visitation rights to the respondent - mother.

3. The parties are referred to as per their ranking before the Family Court.

4. Facts germane to file the present appeal are as under:

² 'the Family Court', for short



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AS PER THE PETITIONER:

- 4.1 The marriage of the petitioner and the respondent was solemnized on 27.06.2016 at Gokul Convention Hall, Tamaka Industrial Area, Kolar as per Hindu rites and customs. From their wedlock, one female child was born namely Kum.Easha G.Gowda on 19.07.2017.
- 4.2 The petitioner is an employee in HDFC Bank and the respondent is Lecturer in Sahyadri PU College, Kolar. After the marriage, they were residing in rental house at Davanagere. Thereafter, the petitioner was transferred to HDFC Bank, Mysore and he shifted his family from Davanagere to Mysore in a rented house. The petitioner family is a joint family, wherein the petitioner and his brothers along with their spouses and children are residing.
- 4.3 It was his contention that the respondent was always reluctant to stay at her matrimonial home and



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expressing her displeasure to stay with them. Though he tried to keep the respondent happy at her matrimonial home, however it is the respondent who never responded for the same and she started harassing him. She was always insisted to lead a luxury life and thereby caused mental cruelty to him.

4.4 The wife was suffering from certain mental disorder, which was causing behavioral changes in her, having great influence on the well-being of the family members including the minor children. After medical consultation, it was revealed that depression, anxiety and panic attacks were reasons for such behavioral changes in the respondent.

4.5 It was contended that, in the month of October 2020, the respondent abruptly walked out of the petitioner's house along with the minor child without even giving any information to him or his parents and started to reside in her parents' house along with



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minor child. The respondent completely stopped visiting the matrimonial home. It was on 18.10.2020, the last time when the petitioner had spoken to his minor child. The respondent was very callous in taking care of the interests of the minor child, she had least concern towards the needs of the child and it was only the petitioner and his family members, who strived for the proper growth of the child.

- 4.6 It was further contended that, the respondent was unable to take care of the child by herself and her parents are not in a position to provide proper assistance, financially, for the development of the child. When the petitioner started demanding custody of the child, the respondent registered false case against him and three unknown persons, alleging that they made an attempt to kidnap the minor child, which forced the petitioner to approach the Court seeking custody of the child.



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AS PER THE RESPONDENT:

- 4.7 In pursuance of notice, the respondent - mother appeared before the Court and filed statement of objections, denying all the averments made in the petition, except marriage, birth of child and avocation of the petitioner and the respondent earlier to marriage.
- 4.8 It was contended that the petitioner has failed in his duties as a husband and father and in order to defame the image of her family, the petitioner has filed the present petition, which is vindictive in nature.
- 4.9 The respondent contended that an application was filed seeking maintenance in C.Misc.No.117/2022 for maintenance and it is only after filing of the said petition, as a counter-claim, this petition has been filed by the petitioner.



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4.10 Apart from this, the respondent has stated that she was subjected to several cruel actions at the hands of the petitioner, but we are not concerned with the same, since the petition is only with respect to custody of the child, as such they are not stated here.

CONSIDERATION OF THE FAMILY COURT:

4.11 The Family Court after appreciating the evidence, both oral and documentary, on the ground that the respondent had admitted that her father is aged about 64 years and suffering from Blood Pressure & Diabetes; her mother is aged about 59 years and she is taking treatment for Arthritis; the respondent - mother has further deposed that she was not working at that point of time and she was unable to take care of the child and further admitted that, the petitioner - father is earning handsome salary and can very well take care of the child as he was earning, these



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admissions coupled with certain other contentions taken by the respondent which according to the Family Court proved to be false, are the reasons and basis for granting permanent custody to the father considering only the financial factor/ability to provide access to the School, as observed from Paragraph Nos.51 to 53 of the Judgment.

4.12 On the reasons subscribed in the paragraphs afore, the Family Court concluded that the petition filed by the petitioner requires to be allowed and granted permanent custody of the minor Ward Kum.Esha G.Gowda to the petitioner - father. It is this Judgment and award passed by the Family Court, is called in question in this appeal by the respondent - mother.

5. Heard, Sri.Sachin.B.S, learned counsel appearing for the respondent - mother and



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Sri.Ganesh.G.G, learned counsel appearing for the petitioner - father.

6. Though it was contended before the Family Court that, the respondent was not working, now it is stated that she is working as a Lecturer and earning. It is not in dispute that the father is now working as Manager, HDFC Bank in Agriculture Section and earning handsome salary, which even not denied by him who has appeared in person before the Court today.

7. The only circumstance which weighed in the mind of the Family Court, is financial capacity of father and admissions of the mother that, she was not earning and hence, the father can very well take care of the child as he is earning.

8. It is well settled principle of law by this Court as well as the Supreme Court in exercising the '*Parrens Patriae*' jurisdiction, paramount consideration is the welfare and intention of the child/ward. The Court



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exercising the *parens patriae* jurisdiction required to see with whom the better interest, welfare and development of the children could be safeguarded, as held in several judicial pronouncements of Supreme Court, including ***NITHYA ANAND RAGHAVAN VS. STATE (NCT OF DELHI) AND ANOTHER*³; *V.RAVICHANDRAN (DR.) (2) VS. UNION OF INDIA AND OTHERS*⁴; AND *TEJASWINI GAUD AND OTHERS VS. SHEKHAR JAGADISH PRASAD TEWARI AND OTHERS*⁵.**

9. As stated above, it is the interest of the child that is the paramount consideration and not the better right of either of the parties to the litigation, while deciding the entitlement of custody. It is not the right granted either under the law or personal law is the consideration for the grant of custody, but the paramount consideration is the welfare and interest of the child in the facts and circumstances with either of the parents with whom better

³ (2017) 8 SCC 454

⁴ (2010) 1 SCC 174

⁵ (2019) 7 SCC 42



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safeguarded. Mere financial capacity is not the only criteria to decide the custody of the child. Admittedly, the ward is minor girl, who requires constant care and nurturing at the hands of the mother. In that view of the matter, we find that the observations of the Family Court in the peculiar facts and circumstances, granting the permanent custody of the minor ward Kum.Esha G.Gowda to the petitioner - father is required to be set aside. For the foregoing reasons, we pass the following:

ORDER

- i) The appeal is ***allowed***.
- ii) The order dated 10.10.2025 passed by the Family Court in G & WC No.9/2022, granting the custody of the minor Ward Kumari Esha G.Gowda to the petitioner - father is set aside.
- iii) The petitioner - father is directed to take care of the entire educational expenses of the child and to pay Rs.12,000/- per month



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towards maintenance of the minor Ward, till she able to earn on her own.

- iv) The petitioner - father is permitted visitation rights, which are as follows:
 - (a) The petitioner - father is permitted to take the minor Ward i.e., the daughter with him on every Saturday after School hours and drop her on Monday directly to the School.
 - (b) It is the responsibility of the petitioner - father to assist the child to attend her home works, when she is with him.
 - (c) The petitioner - father is permitted to call the child on video call on every day between 6:00 pm to 8:00 pm and converse for 20 to 30 minutes.
- v) The respondent - mother shall not come in the way of the petitioner's visitation rights granted hereinabove.



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- vi) Any violation of visitation rights granted herein above may avail the father to file necessary application for modification of order.
- vii) The maintenance stated afore is subject to modification after three years, on an application by the mother, explaining the circumstances seeking enhancement.
- viii) Given the facts and circumstances of the case, no order as to costs.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

TKN
List No.: 1 Sl No.: 26
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