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A Nos. 4808 of 2025 &
5230 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2025

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THE HONOURABLE MR.JUSTICE P. DHANABAL

**A No. 4808 of 2025 and 5230 of 2025
in OP NO. 498 OF 2025**

1. K.Priyanka
W/o.S.Kamesh, Door.No.1/5,17th
Street, S.V.N.Nagar, Ennore,
Chennai-600 057.

Applicant(s)

Vs

1. S.Kamesh
S/o.Selvakumar @ Selvaraj, C-43, Port
Trust Housing Colony, Amstrong street,
Near Tollgate Metro Station,
Tondiarpet, Chennai-600 081

Respondent(s)

A No. 5230 of 2025

1. S.Kamesh
S/o.Selvakumar @ Selvaraj, C-43, Port
Trust Housing Colony, Amstrong street,
Near Tollgate Metro Station,
Tondiarpet, Chennai-600 081

Petitioner(s)

Vs

1. K.Priyanka
W/o.S.Kamesh, Door No.1/5, 17th
Street, S.V.N.Nagar, Ennore, Chennai
600 057.

Respondent(s)

A No. 4808 of 2025

PRAYER: This application has been filed under Order XIV Rule 8 of Original



Side Rules read with Section 12 of Guardian and Wards Act praying to grant an order of temporary interim custody of minor child viz Karvik Krishna, who was born on 14/08/2020 and is currently aged about 5 years old respectively from Friday (5.00 PM onwards) to Sunday (upto 5.00 PM) every week.

A No. 5230 of 2025

PRAYER: This application has been filed under Order XVI Rule 8 of Original Side Rules read with Order XVI Rule 6 read with Section 151 of Code of Civil Procedure praying to issue summons to (i) The Superintendent/Medical Record Officer, Rajiv Gandhi Government General Hospital, Chennai. (ii) The Superintendent/Medical Record Officer, Head of the Department, Clinical Psychology, Institute of Mental Health (IMH) Kilpauk, Chennai and directing the afore mentioned authorities to produce the complete and original medical records bearing out patient sheet O.P.No.530/02/2024 including the Psychometric notes and consultation reports pertaining to the patient Mrs.K.Priyanka, before this Honble Court on a date fixed by this Honble Court.

For Applicant(s) in Mr. K.V. Babu for
A No. 4808 of 2025 M/s.D.Manimaran
and for respondent in
A. No.5230 of 2025:

For Respondent in Mr. P. Raja
A. No.4808 of 2025
and for applicant in
in A No. 5230 of
2025



COMMON ORDER

The application in **A. No.4808 of 2025** has been filed praying to grant an order of temporary interim custody of minor child viz Karvik Krishna, who was born on 14/08/2020 and is currently aged about 5 years old from Friday (5.00 PM onwards) to Sunday (upto 5.00 PM) every week.

(ii) The application in **A. No.5230 of 2025** has been filed praying to direct

(i) The Superintendent/Medical Record Officer, Rajiv Gandhi Government General Hospital, Chennai. (ii) The Superintendent/Medical Record Officer, Head of the Department, Clinical Psychology, Institute of Mental Health (IMH) Kilpauk, Chennai to produce the complete and original medical records bearing out patient sheet O.P.No.530/02/2024 including the Psychometric notes and consultation reports pertaining to the patient Mrs.K.Priyanka.

2. According to the applicant in A. No.4808 of 2025, she is the wife of the respondent and the marriage between the applicant and respondent was solemnized between them on 23.08.2018 as per Hindu Rites and Customs and out of wedlock, a male child namely Karvik Krishna was born on 14.08.2020. The applicant was studying in 2nd year B.Com in Dr. MGR Janaki College of Arts and Science for Women at the time of her marriage and thereafter, she discontinued her studies. She has also completed CSC computer course and she acted as a dutiful housewife to the respondent. The respondent / husband had



completed his Diploma in Polytechnic and was working in WIPRO limited. Her son Karvik Krishna was normal like any other child until the age of 2.5 years without any notable conditions. After undergoing all the continuous mental agony made by her mother-in-law, her child's head tonsuring and ear boring function started to change and all of a sudden, he slowly stopped interacting with others. After a few days, he suffered from severe fever and got hospitalized and underwent treatment for the same. The Doctors advised that the change in behaviour of the child need to be diagnosed as early to find out the problem. But the respondent never cared about the minor child and did not show any interest to take the child to the hospital. When the same was questioned by the applicant, the respondent replied that he did not have time for taking leave and take the child to the hospital. Also he opted his parents to take the child to the hospital and got diagnosed. The child was diagnosed with Autism Spectrum Disorder problem. The child was under medication of Homeopathy medicine due to the respondent's financial distress. The respondent and his mother would drag the child and take him away from the applicant and did not let her even to feed him. The child always left with no attention and whenever the respondent leaves for work, the child would be beaten to sleep by his mother and had also developed the habit of locking up the child within a room with no entertainment of play, pleasure, moving around with cousins, friends. The minor child is not permitted to have some physical play activities. Therefore, there was separation of the applicant and the



respondent due to the cruelty done by the respondent and his parents. The respondent is working spouse and simply he cannot shift the caretaker duty to his aged mother. The applicant's father is sufficiently rich and she is his only daughter and hence she can provide sufficient financial security to provide proper medication for her minor child. She is ready to share the kid's schooling and other basic necessary expenses. After forceable separation by the respondent, the applicant made diligent attempts to visit the minor child, but she was not permitted. Therefore, she filed the main petition and this application to grant interim custody of the minor child from Friday 5 p.m. onwards to Sunday 5.00 p.m. every week.

3. The respondent has filed a counter denying the averments made in the affidavit. The applicant's request for temporary interim custody of the minor son is not in the best interest of the child and the minor son has been diagnosed with Autism Spectrum Disorder and he is in continuous treatment. Further the applicant is not mentally stable and capable of taking care of autistic child and the same has been confirmed by the Chief Physiologist of Government Hospital and the applicant has the mental maturity of an 11 year old . The applicant prior conduct including threatening to attempt suicide or do something to the child, makes granting her any form of custody a very big risk or threat to the child's well being and continuous development. The father of the respondent was working in Chennai Port Trust and his brother is working in a private company



for a good salary and he also earning sufficiently. Therefore, he is taking care of the minor child. The applicant was unable to ready or write even basic materials. From the very beginning of the marriage, the applicant consistently neglected household duties, showed disrespect to his parents, elders and relatives and frequently initiated quarrels over trivial family matters. The accusations made in the affidavit are baseless. The respondent has been working from home specifically to ensure the continuous provision of all necessary medications and therapies to the child. The Therapy was commenced at a private centre from April 2023 to March 2024 and then shifted to another centre for cognitive therapy from March 2024 till date and the child has been attending private speech therapy since September 2024 and the child has been attending autism master classes and the child is taken for regular psychiatric assessments at the Government children's hospital on a daily basis and the child is maintained on a Casein free and Gluten Free diet as part of the treatment plan and he is spending nearly Rs.20,000/- for the child's treatment. Therefore, the interim custody of the child cannot be given to the applicant and if the interim custody is given to her, it will affect the health of the minor child. Therefore, this application is liable to be dismissed and the respondent filed an application in A. No.5230 of 2025 to call for records from the medical department and the same is to be allowed.

4. Heard both sides and perused the materials available on record.



5. The applicant has filed this petition to grant interim custody of the minor child in her favour from Friday (5.00 PM onwards) to Sunday (upto 5.00 PM) every week. In this case, there is no dispute that the child is under the medication for Autism Spectrum Disorder problem. According to the respondent, the child is under medication and he needs continuous medication on every day and the applicant is not capable to take care of the minor child. He also filed an another application to call for medical records from the hospital. The allegations levelled against the applicant are to be tested through trial and now the case is not at the stage of trial and so far pleadings have not been completed. At this stage, the mental stability of the applicant cannot be decided. However, this Court passed an interim order dated 14.10.2025 by directing the respondent / husband to produce minor child at Thiru Vadivudaiamman Temple, Thiruvottiyur from 15.10.2025 to 24.10.2025 between 3p.m. and 6 p.m. without fail. Now, the applicant / mother wants to have custody of the minor child from every Friday evening to Sunday evening on every week. Since the main petition is pending and the minor child is also under the custody of the respondent and he needs continuous medical attention, it may not be proper to grant custody of the minor child in favour of the applicant / mother.

6. It is true that the child needs attention of the mother. Unfortunately, both the parents of the child are separated and now the child is under the custody of the respondent / father, where medical treatment is going on.



Therefore, if the interim custody of the minor child is given for week ends, certainly it will affect the medical treatment of the minor child. However, since already this Court passed an interim order by directing the respondent / father to produce the minor child in a public place for a particular period, it is appropriate to grant some visitation rights to the applicant / mother. The respondent has also filed an another application in A. No.5230 of 2025 to call for the medical records from the hospital. Since the case has not attained the stage of trial, at this stage, it is not necessary to decide the said application and the respondent / husband who filed the application in A. No.5230 of 2025 is at liberty to take out the said application at the time of recording evidence, if requires. Therefore, the application filed by the respondent / husband in A.No.5230 of 2025 cannot be considered at this stage and the same is liable to be dismissed.

7. As far as **A. No.4808 of 2025** is concerned, the respondent / father is directed to produce the minor child at Thiru Vadivudaiamman Temple, Tiruvottiyur on every Saturday at 3.00 pm and the applicant / mother is permitted to spend time with the child till 6.00 pm.. During her visit, she is also permitted to provide food and gift articles to the minor child namely Karvik Krishna. After 6 pm., the applicant/mother shall handover the custody of the minor child to the respondent / father.



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5230 of 2025



8. With the above said observations and directions, the application in A.

No.4808 of 2025 is disposed of. The application in A. No.5230 of 2025 is dismissed.

10-12-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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P.DHANABAL J.
mjs

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