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**IN THE COURT OF THE SENIOR CIVIL JUDGE &
J.M.F.C., AT CHANNAPATNA.**

: PRESENT :

SMT.SHUBHA, B.A.L., L.L.B.,
Senior Civil Judge & JMFC.,
Channapatna.

DATED THIS THE 06th DAY OF MARCH 2024

G. & W.C.No.03/2022

PETITIONER:

Smt.Rakshitha M.A. D/o
Ankegowda, W/o Sudhakar,
Aged about 28 years, R/at
Kodambahalli Village,
Virupakshipura Hobli,
Channapatna Taluk,
Ramanagara District.

(By Sri.K.T.T., Advocate)

V/S

**RESPONDENT:**

Sri.Sudhakar S/o D.Madaiah,
Aged about 36 years, R/at
No.421/1, Negila Nilaya,
Mahadeshwara Nagara,
Kanakapura Town,
Ramanagara District.

**(Represented by Sri.S.B.,
Advocate)**

IN I.A.NO.V**APPLICANT/PETITIONER :**

Smt.Rakshitha M.A.

V/S

OPPONENT/RESPONDENT:

Sri.Sudhakar

Date of filing of I.A.No.XVIII	12.01.2024		
Date of Order	06.03.2024		
Duration of the I.A.	Year/s 00	Month/s 01	Day/s 24

(SHUBHA)
**Senior Civil Judge & JMFC.,
Channapatna.**



ORDERS ON I.A NO.V

The above application i.e., I.A.No.V is filed on behalf of the applicant/petitioner under Section 45(1a) (2) of Guardians and Wards Act read with Section 151 of Civil Procedure Code, praying this court to direct the Respondent to comply the Order dated 01.09.2023 passed by this court, if failure to comply, take the Respondent to custody and remand him to civil prison, in the interest of justice and equity.

2. The above application is supported with the Affidavit of the petitioner wherein she has submitted that she has filed this petition seeking custody of child. That she has filed the application for interim custody of the child. That the court has passed the order on 01.09.2023 by allowing the application and custody of minor ward given to her and also ordered for visitation rights to Respondent. That after the order, the Respondent was not brought the child to court to deliver custody of child to her. That thereafter, she went to Respondent's house, but he was not there, in-laws were present, they say he left house in the morning along with child. That after I



came back, Respondent lodged the complaint against her and her father before Rural Police, Channapatna. Even though order was passed, same was known to him, but he did not entrust the child to her. That she could not get the child even order was passed by this court. After that he filed application before the court seeking time to prefer appeal but he did not filed any appeal before competent court of law. As such, this application being filed to issue necessary steps against Respondent to obtain custody of child. That the balance of convenience lies in her favour to allow the application. Accordingly, the petitioner has prayed to allow the above application.

3. On the other hand, the respondent has not filed any objection to the above application.

4. I have heard the arguments of learned advocate for the petitioner/applicant on I.A.No.V. Now the points that arise for my consideration is:

POINTS

- 1) Whether the petitioner has made out a good ground to allow this application ?
- 2) What order ?



5. My findings to the above points are as follows:-

Point No.1 : Affirmative.

Point No.2 : As per the final order
for the following :

REASONS

6. **POINT NO.1** :- The above application i.e., I.A.No.V is filed on behalf of the applicant/petitioner under Section 45(1a) (2) of Guardians and Wards Act read with Section 151 of Civil Procedure Code, praying this court to direct the Respondent to comply the Order dated 01.09.2023 passed by this court, if failure to comply, take the Respondent to custody and remand him to civil prison, in the interest of justice and equity.

7. In this case, on 01.09.2023, this court by allowing I.A.No.II, ordered that the custody of minor ward Tanisha S. to be given to the mother i.e., Petitioner. However, visitation right is given to the Respondent during the summer holidays and all Sundays till the disposal of this petition on merits. However, in spite of the said order, the Respondent has not given the custody of the child to the Petitioner.



8. The Petitioner has filed an Affidavit stating that as per the Order of this court, she went to the house of Respondent to get the custody of the child, but the Respondent and the minor child were not in the house and mother of the Respondent informed her that she do not know the whereabouts of minor ward and Respondent. Therefore, notice was issued to Respondent to appear before this court along with minor ward. On 12.12.2023, the Respondent appeared before the court by getting the case advanced and furnished medical records of minor ward.

9. Thereafter, the Petitioner has furnished one photo wherein the Respondent is seen with minor ward by holding a glass in a restaurant. It is the fear of the Petitioner that it is not at all safe for the minor ward to be with the Respondent in some restaurants at that late night. Of-course, the court is not having any knowledge with regard to the place where the said photo is taken. But the grievance of the Petitioner has to be taken into consideration. The court while passing the said Order, considered the welfare of the minor ward. If the



Respondent has got any grievance with regard to said Order, he has to challenge it or else he has to comply the said order.

10. The Petitioner was present on all the hearing dates and very much eager to take the minor ward with her. But the Respondent has not at all appeared before this court and not complied with the Orders passed by this court.

11. The Order of this court is not challenged by the Respondent. Therefore, the Respondent has to comply with the directions issued by this court or else he has to be sent to Civil Prison as provided under Section 45(1a) (2) of Guardians and Wards Act read with Section 151 of Civil Procedure Code. However, notice must be issued before passing any order to send the Respondent to the Civil Prison. Hence, with these observations, I answered the above **Point No.1 in the Affirmative.**

12. **POINT NO.2** :- In view of my findings given on Point No.1 for the reasons discussed herein above paragraphs, I proceed to pass the following:



ORDER

The I.A.No.V filed on behalf of the applicant/petitioner under Section 45(1a) (2) of Guardians and Wards Act read with Section 151 of Civil Procedure Code, is hereby allowed.

Issue show-cause notice to the Respondent calling an explanation from him as to why he should not be sent to Civil Prison for not complying with the Order dated 01.09.2023 passed by this court.

(Dictated to the Typist Copyist on computer, then corrected, initialed and pronounced by me in the open court on this the **6th day of March 2024**)

(SHUBHA)
**Senior Civil Judge & JMFC.,
Channapatna.**