

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-I, PERUMBAVOOR**

**Present: Sri.Anish Babu M.B., Judicial Magistrate of First Class-I**

Monday, the 1<sup>st</sup> day of December, 2025/ 10<sup>th</sup> Agrahayana 1947

**CMP No.2882/2023 IN MC No. 41 OF 2023**

Petitioner/Respondent : Dhanesh, aged 39, S/o Thambi,  
Chiramolath House, West Vengola Kara,  
Arackappady Village.  
**(By Adv. Simi C. S.)**

Respondent/Petitioner No.1 : Josphin, aged 39, W/o Dhanesh,  
Chiramolath House, West Vengola Kara,  
Arackappady Village.  
**(By Advs. Shibu Varghese & Bincy P Paul)**

This petition came up today for a hearing, the court passed the following:

**ORDER**

This petition was moved by the respondent No. 1 in the MC with a prayer to direct the 1st petitioner in the MC to give assistance to him in order to shift the school of the child named Shan Dhanesh.

2. The petitioner is the husband of the 1st petitioner in the MC. It is stated in the petition that the child named Shaan Danesh is studying in the Vimala Central School, Perumbavoor, and he is incurring an amount of Rs. 54400/- per year and also such other fees. According to the petitioner, he is a JCB operator, and he is paying the loan amount for the JCB and also towards the housing loan. As there a financial constraint, it is prayed to direct the 1st

petitioner/wife to give necessary assistance to shift the child to any other Government school or other Aided schools for the welfare of the child.

3. The learned counsel for the respondent/petitioner submitted that the petition is moved maliciously, and if the prayer is allowed, that will definitely affect the bright future of the child.

4. Heard the learned counsel for the petitioner/1st respondent as well as the learned counsel for the respondent/1st petitioner.

5. The points that arise for determination are: -

**1.** Whether the application moved by the petitioner/1st respondent be allowed?

**2.** If so, on what terms?

6. **Points Nos. 1 & 2:** Both these points are considered together for brevity and for the sake of convenience. The respondent/1st petitioner herein has approached this court for various reliefs under the provisions of the DV Act in the year 2023. It is to be noted here that after a series of conciliation attempts on the part of the court, mediators and counselling, this court realised that no effective purpose would be served in engaging in such futile and prolonged unending processes. According to the learned counsel for the petitioner in MC, the 1st respondent is not providing the ordered interim maintenance regularly, and is not even spending any amount for the treatment of the 1st petitioner in MC. The petitioner/1st respondent is also not providing the requisite treatment

of the child also as he requires an emergent surgery of his lower jaw, and the petitioner/1st respondent is purposely delaying the surgery, which may cause permanent disfiguration of the face of the child. The learned counsel for the respondent/1st petitioner submitted that the petitioner/1st respondent is now engaged in research on how he could create problems in the life of the 1st petitioner in the MC and her little child.

7. The petitioner/1st respondent contends that he is a JCB operator, and he is paying the loan amount for the JCB and also towards the housing loan. As there a financial constraint, the present school of the child, named Shan Dhanesh, to be shifted to any other Government school or other Aided schools for the welfare of the child. It is undisputed that the child named Shan Dhanesh is presently studying at Vimala Central School, Perumbavoor. It is to be noted here that the child was admitted to the said school when the parties were harmoniously residing in the very same shared household. At that time also the respondent/1st petitioner had no job or income of her own, and the petitioner/1st respondent was doing the very same job as a JCB operator. But when the respondent/1st petitioner lodged a complaint under the provisions of the DV Act and also obtained favourable orders from the court, the petitioner/1st respondent thought about the shifting of his child to any other school. After all, there is no change in the financial status of the petitioner/1st respondent from the point of getting the admission of his child in the present school till date, at all.

Moreover, in matters about the child during disputes between his parents, the primacy of child welfare must be the criterion. At this point in time, this court is not in a position to hold that the shifting of the child to another school would be for his better welfare. Moreover, while prioritizing the welfare of the child, this court is of the firm opinion that the prayer to shift the school of the child is not apt at this stage, and if that prayer is allowed on a mere asking, definitely such a relief amounts to a permanent nature, and that cannot be granted by this court in the present proceedings. Hence, the petition is devoid of merit, and the same is liable to be dismissed. The Points are answered against the petitioner/1st respondent.

In the result, the petition is dismissed.

Pronounced by me in Open Court this the 1<sup>st</sup> day of December, 2025.

sd/-

**Judicial Magistrate of First Class-I  
Perumbavoor**