

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.4605 OF 2024 (GM-FC)

BETWEEN:

MR. RAGHAVENDRA M.R.,
S/O MR. K.R. RADHAKRISHIAH SETTY,
AGED ABOUT 42 YEARS
RESIDING AT BDA NO.665,
NEW NO.19, 16TH MAIN,
JNANABHARATHI LAYOUT
2ND STAGE, NAGADEVANAHALLI
NEAR AMMA ASHRAM,
BENGALURU – 560 056.

...PETITIONER

(BY SRI.VIKRAM VARADAKUMAR, FOR
SMT. B.V.VIDYULATHA.,ADVOCATES)



AND:

MRS. VINAYASHRI M
D/O B.S. NARASIMHAMURTHY
AGED ABOUT 38 YEARS
R.AT KRISHNANILAYA
BEHIND S.R.E. OFFICE
NEAR INDIAN BANK,
CHITRADURGA TOWN
CHITRADURGA – 577 501.

...RESPONDENT

(RESPONDENT SERVED BUT UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER
DTD 15.07.2022 PASSED ON THE INTERIM APPLICATION FILED
U/S 12 OF THE G AND WC ACT R/W SECTION 151 OF CPC IN G
AND WC NO.227/2018 ON THE FILE OF THE HONBLE
PRINCIPAL SENIOR CIVIL JUDGE AND CJM, CHITRADURGA IN

SO FAR AS NOT GRANTING THE CUSTODY OF THE CHILD FROM SATURDAY MORNING TO MONDAY MORNING OF EVERY WEEKEND, ON EVERY GOVERNMENT AND SCHOOL HOLIDAY, DURING SUMMER AND WINTER VACATIONS BY GETTING THE CHILDREN FROM CHITRADURGA TO BANGALORE VIDE ANNEXURE-A.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 27.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

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

CAV ORDER

The present petition is filed seeking quashing of the impugned order dated 15.07.2022 passed on an interim application under Section 12 of the Guardians and Wards Act, 1890 read with Section 151 of the Civil Procedure Code, 1908 in G & WC No.227/2018 on the file of the Principal Senior Civil Judge and CJM, Chitradurga ('the Family Court' for short), insofar as it declines to grant custody of the minor children to the petitioner on weekends, Government and school holidays, and during summer and winter vacations by permitting them to be taken from Chitradurga to Bengaluru.

2. The petitioner/father herein and the respondent herein/mother are the petitioner and respondent before the Family Court respectively.

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

The respondent is the legally wedded wife of the petitioner and their marriage was solemnized on 09.05.2007 at Radhakrishna Convention Hall, Kalyana Mantapa, Bengaluru, in accordance with Hindu rites and customs. Out of their wedlock, a son, Aneesh Meda, was born on 16.09.2009 and a daughter, Vedika Varsha Meda, was born on 05.04.2013. It is the case of the petitioner that while the children were studying in 4th Standard and UKG respectively at Baldwin Institutions, Bengaluru, in February 2018, the respondent left the matrimonial home along with the minor children, discontinued their schooling during the academic year and shifted to Chitradurga. The petitioner initially lodged a complaint before Jnanabharathi Police Station on 24.02.2018 and, upon insistence, submitted a further complaint on 13.03.2018, which came to be registered as NCR No.125/2018. In her reply dated

15.03.2018, the respondent stated that she had voluntarily left the matrimonial home.

4. It is further the case of the petitioner/father that he had sold his property and paid a sum of Rs.14,00,000/- to the respondent/mother for commencing a business in steel and cement under the name and style Pallavi Steel and Cement Traders, and that the respondent was managing the financial affairs of both the business and the household. According to the petitioner, the parties were leading a cordial marital life until February 2018, when the respondent left for her parental home at Chitradurga along with the children and did not return despite efforts made by the petitioner and his family members.

5. The respondent thereafter lodged a complaint in Crime No.39/2018 before the Women Police Station, Chitradurga, alleging offences under Sections 498-A, 504, 506, 448, 323 read with Section 34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961 which culminated in C.C.No.349/2019. The said proceedings,

insofar as the parents and sister of the petitioner are concerned, were quashed by this Court by order dated 01-09-2023 in Crl.P.No.6135/2019. The respondent also initiated proceedings under the Protection of Women from Domestic Violence Act, 2005 in Crl.Misc.No.230/2018 and obtained an interim order dated 30.05.2018 directing payment of Rs.2,500/- each to herself and the two minor children, in all Rs.7,500/- per month, which the petitioner states he has been paying.

6. The petitioner, asserting his willingness to resume cohabitation, filed a petition under Section 9 of the Hindu Marriage Act, 1955 in M.C.No.4505/2018 on 18.08.2018, which upon transfer was renumbered as M.C.No.05/2021 and is pending consideration. He also filed a petition under the Guardians and Wards Act, 1890 in G & WC No.227/2018 on 18.08.2018 seeking custody of the minor children, which upon transfer was renumbered as G & WC No.01/2021, wherein the respondent has filed her statement of objections. During pendency of the said proceedings, the petitioner filed an application under

Section 12 of the Act read with Section 151 of the CPC seeking interim custody of the children during weekends, school holidays and vacations.

7. The Family Court, by the impugned order dated 15.07.2022, partly allowed the said application and granted visitation rights to the petitioner to meet the minor children on first Saturday of every month between 04:00 p.m. and 05:00 p.m. at the Mediation Centre, Chitradurga, while taking care of the health and safety of the minor children, and directed the respondent to produce the children accordingly. However, the prayer seeking interim custody of the minor children during weekends, school holidays and vacations by taking them from Chitradurga to Bengaluru came to be rejected, primarily on the ground of existence of allegations and counter-allegations between the parties. Aggrieved by the said rejection to that extent, the petitioner has filed the present writ petition.

8. The learned counsel appearing for the petitioner would contend that the Family Court has failed to apply

the settled principles governing custodial matters and has not assigned any proper or cogent reasons while rejecting the application insofar as grant of interim custody of the minor children during summer and winter vacations, government holidays and school holidays is concerned despite the Family Court having observed that the children require the love and affection of both the parents.

9. It is further contended that in matters relating to custody, the welfare of the minor children is of paramount consideration and not the competing rights of the parents. While determining such issues, due regard must be had to the comfort, contentment, health, education, intellectual development and overall well-being of the children, including moral and ethical upbringing. It is also urged that the Family Court ought to have considered the preference of the children by interacting with them, as contemplated under Section 17(3) of the Guardians and Wards Act, 1890. In this regard, reliance is placed on the judgment of the Apex Court in ***Nil Ratan Kundu v. Abhijit Kundu*** reported in

(2008) 9 SCC 413, wherein it is held that ascertaining the wishes of the child is an important and desirable exercise while adjudicating custody disputes.

10. It is also contended that even the limited visitation rights granted by the Family Court are not being complied with by the respondent, inasmuch as the respondent has failed to produce the minor children before the Mediation Centre, Chitradurga, thereby depriving the petitioner of access to the children in spite of the order dated 15.07.2022 passed in G & WC No.01/2021. The petitioner states that he has filed multiple memos before the Family Court seeking enforcement of the said order.

11. Heard learned counsel appearing for the petitioner. The learned counsel for the respondent though served, unrepresented.

12. Having heard the learned counsel for the petitioner and upon perusal of the material on record, it is not in dispute that the proceedings in G & WC No.227/2018, filed on 18.08.2018 and subsequently

renumbered as G & WC No.01/2021, are pending consideration before the competent Court. The impugned order dated 15.07.2022 is passed on an interlocutory application under Section 12 of the Guardians and Wards Act, 1890 read with Section 151 of the CPC. It is well settled that orders passed on interim applications in custody matters are discretionary in nature and this Court, in exercise of its supervisory jurisdiction, would interfere only if the order suffers from patent illegality or perversity.

13. In the present case, the Family Court has taken note of the relationship between the parties, the age of the minor children and the fact that they are school-going. The Family Court has also noticed the existence of serious allegations and counter-allegations between the parties. Taking these aspects into consideration, and while observing that the children are entitled to the love and affection of both parents, the Family Court has granted limited visitation rights to the petitioner at the Mediation Centre, Chitradurga on first Saturday of every month and has declined the request for interim custody during

weekends, school holidays and vacations. The said exercise of discretion cannot be termed as arbitrary or unreasonable.

14. It is further observed by this Court that a reading of the impugned order indicates that the Family Court, having regard to the prevailing circumstances and the nature of disputes between the parties, has consciously declined to permit shifting of the minor children from Chitradurga to Bengaluru at the interim stage. In matters relating to custody, the paramount consideration is the welfare of the children and at this stage, the Family Court has chosen to maintain the existing arrangement of the children, which cannot be found fault with.

15. Though reliance is placed on the settled principles that welfare of the child is of paramount consideration, the application of such principles depends on the facts of each case. At the interlocutory stage, when the main petition itself is pending adjudication, this Court is of the view that the arrangement made by the Family

Court subserves the interest of the minor children and does not warrant interference.

16. Insofar as the allegation regarding non-compliance of visitation rights is concerned, it is open to the petitioner to seek appropriate remedy before the Family Court. The same cannot be a ground to interfere with the impugned order in the present proceedings.

17. In view of the above, this Court proceeds to pass the following:-

ORDER

The present petition is ***dismissed.***

Pending IA's if any shall stand disposed of.

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