



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2024

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 13848 OF 2024 (GM-FC)

BETWEEN:

SRI. SAYAN MUKHERJEE
S/O ASISH KUAMR MUKHOPADHYAY
AGED 43 YEARS,
R/AT A-401, ORCHID GREENS HENNUR ROAD, KANNUR,
BENGALURU NORTH,
BENGALURU-562 149.
PH 919342561080.

...PETITIONER

(BY SRI.K.G.KAMATH, ADVOCATE)

AND:

SMT. NABAMITA MUKHERJEE
W/O SRI SAYAN MUKHERJEE
AGED 41 YEARS
R/AT A-401, ORCHID GREENS HENNUR ROAD, KANNUR,
BENGALURU NORHT BENGLAURU-562149.

PRESENTLY AT
SMT.NABAMITA MUKHERJEE
C/O DEBARJUN RAY,
AGED 41 YEARS
R/AT FLAT #1603 TOWER-14,
LOTUS BOULEVARD, NOIDA,
SECTOR-100, PIN-201 304.

...RESPONDENT

(BY SRI.ADIT CHANDANGOUDAR, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE INTERIM
ORDER DATED: 22.03.2024 PASSED ON I.A. NO.2 IN G AND WC NO.
21/2023 BY THE IV ADDITIONAL SENIOR CIVIL JUDGE, BENGALURU
RURAL, AT BENGALURU, VIDE ANNEXURE-A, CONSEQUENTLY ALLOW





THE I.A.NO.2 AS SOUGHT OR MY KINDLY PASS APPROPRIATE ORDER TO MEET THE ENDS OF JUSTICE.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed aggrieved by the orders passed in I.A.No.2 & 3 in G&WC No.21/2023 dated 22.03.2024 by the IV Addl. Senior Civil Judge, Bengaluru Rural District.

2. The said G&WC is filed by the father for the custody of the child, in that he has filed I.A.No.2 and 3. I.A.No.2 is filed restraining the mother from taking the minor child out of Bangalore. I.A.No.3 is filed seeking visitation rights. Initially the wife had filed a memo stating that she has no objection and will not take the child out of the jurisdiction of the court till the injunction petition is decided i.e., I.A.No.2. Thereafter by order impugned the court had dismissed the I.A filed by the husband seeking injunction and the court has observed that there is no provision under the act to pass such an order. Then as far as I.A.No.3 is concerned, father was granted visitation on every Sunday from 8.00 am. to 10.00 p.m. depending upon the



convenience, he is entitled to the interim custody on public holiday.

3. When the matter came up on 18.07.2024, this court had passed an order which reads as follows:

The petitioner is before this Court aggrieved by the order passed by the trial Court in I.A.No.2, whereby the trial Court had rejected the application filed by the father seeking direction to restrain the mother not to move the child to any city. In I.A.No.3, the petitioner had claimed the relief of handover the child to the custody of the father and the trial Court had partly allowed the same. When it comes to the order restraining the mother from taking the child from the jurisdiction of the Court, the trial Court had observed that the application under Order 39 Rule 1 and 2 and Section 151 of CPC is not maintainable.

Learned counsel for the petitioner submits that earlier, when he has moved such an application before the trial Court, the respondent had filed memo that the minor will not be removed from the city as sought by the petitioner in I.A.No.2. In spite of all these, she has taken the child to Delhi. The trial Court had granted visitation rights to the father on every Sunday from 8:00 A.M to 10:00 P.M and he is also entitled to the interim custody on public holiday to the school if any of the said time.

Considering all these, the mother shall be present along with the child on 25.07.2024 before this Court.

and again on 26.07.2024 another orders was passed.



4. Today the mother along with the child is present before the court. When the matter came up in the morning this court has suggested both the advocates to try for a settlement and also this court had asked Mr. Gautham Raghunath, Advocate to mediate in this matter. With the co-operation and active intervention of the counsels, the parties have entered into a settlement and a 'Joint Memo' is placed before the court. Both the husband, wife and the advocates are present before the court. The husband and wife submits that in the interest of the minor child, they have arrived at this settlement. The Joint Memo filed by both the parties, is taken on record. The 'Joint Memo' filed by the parties reads as follows:

The Petitioner and the respondent respectfully submit as follows:

1. ***The Petitioner father had filed a G & WC No.21/2023 before the Senior Civil Judge, Bengaluru Rural. Challenging orders on I.A.No.2 and 3 the Petitioner has filed the above writ Petition. During the pendency of the above Writ Petition the parties have arrived at an amicable arrangement between them and the same is placed before this Hon'ble Court for kind consideration.***
2. ***The respondent agrees to give custody of the minor child Master Ishaan with the petitioner for continuing his studies at Bengaluru. The Petitioner will visit Delhi on 04.08.2024 and the Respondent will hand over the custody of the***



minor child to the custody of the father to be taken to Bengaluru for his studies and the Respondent has no objection on this matter.

- 3. The petitioner will facilitate for the respondent to talk with the child on a daily basis either through audio or video call . The petitioner will keep the respondent all the academic & social information about the child and pass on all the educational details with the mother including the periodical reports of the minor child.***
- 4. The Petitioner will bear all the educational expenses of the child as long as the child studies and the respondent has no responsibility on this matter.***
- 5. The Petitioner agrees to retain the child for 10 days during the summer vacation of the school of the Child and the respondent is entitled for the remaining period of the summer vacation. Similarly, the Respondent is entitled for the entire Dussera vacation of the child and the petitioner is entitled for the winter vacation to the school.***
- 6. The Petitioner agrees that the respondent can visit the child at Bengaluru with a prior intimation and spend time with him during the week ends and similarly the Petitioner is entitled to V.C. of the Child during the summer vacation in the custody of the Respondent.***
- 7. Since the Respondent is not employed at present and in order to facilitate for her present maintenance, the Petitioner is voluntarily undertakes for paying the monthly maintenance of Rs.65,000/- (Rupees Sixty five thousand only) with effect from 1st August onwards until the divorce between them in accordance with law.***
- 8. The Petitioner and the Respondent submits that this settlement has been arrived at keeping in***



mind the paramount importance for the wise welfare of the minor child. Both parties will maintain civil and cordial relation with each other for the purpose of communication and visitation of the minor child.

- 9. The above settlement/arrangement arrived by the parties herein, shall also be placed on record before the learned trial court for amicable settlement for dispute before the trial court.***

5. In light of the settlement arrived between the parties, it is submitted that they will place the same before the G & WC court also and on that basis the G & WC proceedings will also be closed.

6. Considering the welfare of the child and the joint memo placed on record, the writ petition is disposed of in the light of the compromise entered between the parties. If there are any other claims in respect of the other disputes with regard to marriage, the parties are at liberty to pursue the same.

7. Before parting this court places on record appreciation for the effort made by Sri K.G.Kamath, learned counsel for the Petitioner, Sri Adit Chandan-goudar, learned counsel for Respondent and Sri Gowtham Raghunath, Advocate appointed



by this court to act as mediator. These kind of efforts from the advocates will mitigate the suffering of the parties as well as the little ones who have to undergo the legal proceedings. The case which has come up for the 2nd time has ended in compromise which is a welcome step and amicable solution is the way ahead in matrimonial matters. Unfortunately the matrimonial matters are driven by the state of mind of an emotionally hurt litigant and resolving them in that state of mind becomes a big challenge. In these cases both the parties tend to forget that amicable settlement is the best way to deal with their problems and litigation is always the last resort. The parties who are earning meager amounts are spending huge amounts for litigation by borrowing amounts, they are losing their precious time and quality life in litigation. The wife, husband and the little ones are put to tremendous mental strain which will have enormous effect on the life of the child. For the parents their personal and professional life is also impacted with this. The parties in this case have taken the most reasonable and effective decision which will put a quietus to the litigation and help them to live peacefully.



Accordingly, the following:

ORDER

- i. In the light of the joint memo dated 29.07.2024, the writ petition is ***disposed off.***
- ii. Along with the order copy, the joint memo shall be annexed.
- iii. All I.As., in this writ petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

TS
List No.: 1 Sl No.: 2