



2026:KER:44376

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 19TH DAY OF JUNE 2026 / 29TH JYAISHTA, 1948

OP (FC) NO. 285 OF 2026

**AGAINST THE ORDER DATED IN IA 7/2024 IN OP NO.1745
OF 2023 OF FAMILY COURT, THRISSUR**

PETITIONERS/PETITIONERS:

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**BY ADVS.
SHRI.PRABHU K.N.
SMT.ELIZABETH CYRIAC
SHRI.ZANHAR C.
SMT.AKSHARA V. A.
SMT.DHILSHA HABEEB
SHRI.CHRISTO SIMON**

RESPONDENT/RESPONDENT:

**THIS OP (FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 19.06.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

**'CR'****JUDGMENT****Shoba Annamma Eapen, J.**

This original petition is filed by the wife and her parents, who are the petitioners in I.A. No.7 of 2024 in O.P.(Guardian) No.1745 of 2023 filed before the Family Court, Thrissur. The above original petition was filed by the husband for permanent custody of the child.

2. The 1st petitioner and the respondent herein are wife and husband respectively. Due to matrimonial disputes, they are living separately and a child was born in their wedlock on 01.07.2015. The 1st petitioner/wife is working as a Senior Support Worker in the United Kingdom. I.A. No.7 of 2024 was filed by the petitioners herein seeking permission of the Court to take the child along with her in order to provide proper care and better education to him. The Family Court, after considering the objection filed by the husband, permitted the wife to take the child abroad with her. However, certain conditions were imposed while passing the order, which the petitioner finds



difficult to comply with. Aggrieved by the same, the above original petition is filed.

3. Aggrieved by the condition Nos.1 and 3 in the operative portion of Ext.P9, the order in I.A. No.7 of 2024, the petitioners have approached this Court with the above original petition. Though notice was served on the respondent, there is no appearance on his behalf.

4. We have heard the learned counsel for the petitioners.

5. The Family Court, while allowing the petition, found that the 1st petitioner is in a better financial position and that she has secured a job in the United Kingdom. For the better interest of the child, it was found that she would be able to give proper care and attention to the welfare of the child. However, the Family Court directed the mother to furnish security of Rs.75 lakh for taking the child from India to UK and also directing her and her two sureties to execute a bond of Rs.7,50,000/- each.

6. The learned counsel for the petitioners



relied on the judgment of the Apex Court in **Ritika Sharan v. Sujoy Ghosh** [2020 KHC 6612] wherein the Apex Court held that the welfare of the minor child is of the paramount concern and waived the condition imposed by the Family Court, and had further directed the appellant therein to file an undertaking before the Court to abide by the conditions imposed.

7. The primary consideration which must weigh with the Court is the welfare of the child. The child, being aged only 8 years, found that the mother would be the better person to take care of him. However, for ensuring the return of the child, interim custody of the child and to avert any adverse consequences to the welfare of the child, the Family Court had imposed certain conditions while permitting the child to be taken abroad.

8. The mother is willing to provide better education by taking him to the United Kingdom and to take care of the welfare of the child. Conditions should not be illusionary or incapable of compliance. The right of the child to good education cannot be scuttled by



onerous financial burden. After permitting the mother to take the child to the United Kingdom, the courts should not penalise custodial parents. There is no case alleged that the mother had violated any previous court order. The condition of ₹75 lakh now imposed only serves to deny the child a better educational opportunity. Thus, we find that the imposition of an exorbitant amount as security by the family court is liable to be set aside, as it does not subserve the best interests of the child. Such onerous conditions would place the mother in a position where compliance is impracticable, which would ultimately be detrimental to the child's welfare.

9. Considering the same, we find that the condition Nos. 1 and 3 imposed by the Family Court are onerous and are liable to be set aside.

Accordingly, the original petition is allowed as follows:

The condition Nos. 1 and 3 in Ext.P9 order in I.A. No.7 of 2024 in O.P.(Guardian) No.1745 of 2023 dated 07.04.2026, are hereby set aside. The petitioner herein



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is directed to file an undertaking before the Family Court to abide by the remaining conditions in the said order and shall strictly comply with the same.

Sd/-
J.NISHA BANU
JUDGE

Sd/-
SHOBA ANNAMMA EAPEN,
JUDGE

STB



APPENDIX OF OP (FC) NO. 285 OF 2026

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF O.P NO.1745/2023 ALONG WITH IA. NO. 2/2023 IN O.P. NO. 1745/2023 DATED 21.10.2023**
- EXHIBIT P2 TRUE COPY OF ORDER DATED 15.12.2023 IN IA. NO. 2/2023 IN O.P. NO. 1745/2023 PASSED BY THE FAMILY COURT, THRISSUR**
- EXHIBIT P3 TRUE COPY OF ORDER DATED 01.01.2025 IN IA. NO. 6/2024 IN O.P. NO. 1745/2023 PASSED BY THE FAMILY COURT, THRISSUR**
- EXHIBIT P4 TRUE COPY OF IA. NO. 7/2023 IN O.P. NO. 1745/2023 DATED 26.12.2024**
- EXHIBIT P5 TRUE COPY OF COUNTER FILED BY THE RESPONDENT IN IA. NO. 7/2023 IN O.P. NO. 1745/2023 DATED 27.01.205**
- EXHIBIT P6 TRUE COPY OF ORDER DATED 04.04.2025 IN IA. NO. 7/2024 IN O.P. NO. 1745/2023 PASSED BY THE FAMILY COURT, THRISSUR**
- EXHIBIT P7 TRUE COPY OF THE MEDIATION REPORT DATED 13-06-2025**
- EXHIBIT P8 TRUE COPY OF THE COUNSELLING REPORT DATED 07-02-2026**
- EXHIBIT P9 TRUE COPY OF THE ORDER PASSED BY THE FAMILY COURT THRISSUR IN IA 7/2024 IN O.P. NO. 1745/2023 DATED 07-04-2026**
- EXHIBIT P5 True English translation of Exhibit P5**