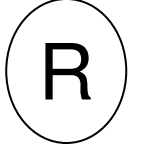




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**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 19<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA**

**WRIT PETITION NO. 24828 OF 2026 (GM-FC)**

**BETWEEN:**

...PETITIONER

(BY SRI. B. RAMESH, ADVOCATE FOR  
SRI.MANU SHANKAR S. S., ADVOCATE)

**AND:**

...RESPONDENT

(BY SRI.ABHILESH, ADVOCATE FOR  
N.S. VIJAYKUMAR, ADVOCATE FOR C/RESPONDENT)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF  
THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE





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ORDER DATED 29.07.2026 PASSED BY THE LEARNED II ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, BENGALURU, ON I.A. NO.VII IN G. AND W.C. NO. 319/2025, PRODUCED HEREWITH AS ANNEXURE-P.

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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

**ORAL ORDER**

Heard Sri.B.Ramesh, who represents Sri.Manu Shankar.S.S, learned counsel on record for the petitioner as well as Sri.Abhilesh who represents Sri.N.S.Vijaykumar, learned counsel on record for the respondent.

2. This writ petition is filed seeking the following reliefs:

- a) *Issue a writ of certiorari or any order or direction under Article 227 of the Constitution of India, quashing the order dated 29.07.2026 passed by the learned II Additional Principal Judge, Family Court, Bengaluru, on IA No.VII in G & WC No.319/2025, produced herewith as Annexure-P.*
- b) *Consequently, allow I.A.No.VII filed by the petitioner under Section 12 of the Guardians and Wards Act, 1890 read with Section 151 of the Code of Civil Procedure, 1908, by directing the respondent to produce the minor child, Kum.Samanvi.S, before this Court or learned Trial Court forthwith and restore the custody of the*



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*minor child to the petitioner, in accordance with law;*

- c) *Pass such other order or orders as this Hon'ble Court may deem fit, proper and expedient in the facts and circumstances of the case, in the interest of justice and equity.*

3. The flow of events as submitted by learned counsel who represents the petitioner/mother which are not disputed by learned counsel who represents respondent/father are as under:

(i) The marriage between petitioner and respondent was solemnized in the year 2015.

(ii) They gave birth to a female child in the year 2019 and that child is

(iii) Due to disputes that arose between them, father and mother are residing separately.

(iv) Mother filed M.C.No.4991/2025 seeking dissolution of marriage by decree of divorce.



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(v) Father instituted G & WC No.319/2025 seeking permanent custody of the child

(vi) Father filed I.A.No.II seeking interim custody as well as visitation rights of the child.

4. I.A.No.II was disposed of on 17.04.2026 permitting father to communicate with his daughter through audio/video calls on alternate days for 20 minutes, to have visitation rights on every fourth Sunday from 11.00 a.m. to 05.00 p.m., granting liberty to mother to accompany the child during the period of visitation, father to have overnight custody of the child from 04.00 p.m. on every second Friday till 06.00 p.m. on every second Sunday, mother to have communication rights twice a day for 15 minutes during the period of overnight custody. Aggrieved by the visitation granted through orders on I.A.No.II, mother filed a writ petition before this Court vide Writ Petition No.19158/2026. Said writ petition was disposed of through order dated



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22.07.2026 modifying the order dated 17.04.2026 passed by the Family Court and granting communication rights to the father through audio/video calls alternative days for 20 minutes, granting custody of the child to the father once in a month for two days. Father was directed to take the child from the custody of mother after school hours on Friday and to hand over the child to the mother on Sunday evening by 08.00 p.m. or 09.00 p.m. at Pune. Father was permitted to spend time with the child either at Pune or at Bengaluru by taking the child to Bengaluru.

5. While the things stood thus, as per the submission that is made by learned counsel who represents the mother i.e. the petitioner herein, on 18.07.2026, mother came to Family Court, Bengaluru, with the child to attend her case. Respondent/father also came to the Court. After the case was adjourned, father abducted the child in his car and on that she followed him and got into the same car. Her husband's sister by name Smt.Sindhu was also present in the car. Father failed to



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respond and failed to hand over the child to her. They took the child to the residence of i.e. the sister of respondent/father. The daughter was taken inside the house and she was forced to remain outside. On that she dialed 112 and informed the matter to police. Police arrived at the spot and took her to police station. Thereafter, Sampigehalli Police called respondent/father. Respondent/father came to police station along with the child, but he took away the child again from police station without informing even police personal. Though police attempted to contact him, he did not answer the calls. Since then child remains under the custody of the respondent/father. Aggrieved by the acts of respondent/father, petitioner/mother filed I.A.No.VII seeking the Court to direct respondent/father to produce the child and to restore the custody to her. However, Family Court dismissed the said application without basis and aggrieved by the same this writ petition is filed.



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6. Learned counsel states that respondent/father had no authority to take custody of the child and he violated the orders of the Family Court as well as this Court. Learned counsel thereby seeks to allow the writ petition.

7. Per contra, learned counsel for the respondent states that the act done by the respondent/father in taking away the child may be improper in the eye of law. However, as father he is justifiable. The child will not be safe under the custody of mother. Petitioner/mother who is an employee working at Bengaluru, without any basis relocated herself to Pune. She has not disclosed her residential address at Pune. Even to exercise visitation rights, respondent/father has to go to Pune and he has to take the custody of the child. Without residential particulars he cannot take the custody of the child and exercise visitation rights. That apart, petitioner/mother stays alone at Pune. When she goes out for work, the child has to stay alone. On the other hand, at Bengaluru, where



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respondent/father stays, his mother is present, his sister is present, his relatives are also present. Therefore, the best interests of the child will be to remain at Bengaluru only. Thus, respondent/father took the custody of the child.

8. The things that went on between the spouses where each of them claim themselves to be aggrieved party, disclose sad state of affairs. Indeed the aggrieved party is the child in question. Basic human rights of the child are violated in this case. Abruptly taking the custody of the child without atleast enquiring the child whether she is willing to accompany and giving time to the child atleast to think about, to respond and to make up her mind, is in clear violation of basic human rights.

9. Adults as well as children have equal human rights. In the case on hand, the child was taken away as if she is a commodity or lifeless object.



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10. Child's right to be treated with dignity, to live in secured atmosphere, to be protected from all kinds of abuse, audience before Courts of law, to participate in issues relating to family, to get education of his/her choice etc., is integral part of Article 21 of the Constitution of India which guarantees Right to Life. One of the prime objects of establishing Family Courts in India is to preserve and promote these salutary rights.

11. Children, being most vulnerable members in society require utmost care, adequate protection and special attention. Children are required to be treated with empathy, sensitivity and compassion. Courts should remain vigilant while dealing Guardianship and Custody matters. In essence, emotions should not override legal rights.

12. The act of the father taking the child from the Court premises cannot be appreciated. For taking the child to his custody, it is expected on his part to consult the



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person with whom the custody is in accordance with law. Also, when he has moved an application for the custody of the child and interim visitation rights were also granted, violating every order of the Court of law, be that the Family Court or the High Court, father has taken the custody of the child. In case respondent/father feels that child will not be safe in the hands of petitioner/mother or the child will feel difficulty in living at Pune, nothing could have prevented respondent/father to move an application bringing to the notice of the Family Court about the same and seeking an order restraining the petitioner/mother to relocate the child from Bengaluru to Pune. Nothing of that sort appears to have been done till he had taken the custody of the child that too without any order of this Court. The orders rendered by this Court in Writ Petition No.19158/2026 clearly reveals that the Court has taken note of the fact that the petitioner/mother is staying at Pune. That is why in the operative portion of the order, this Court has clearly indicated and permitted father to



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take the custody of the child for exercising visitation rights from Pune and hand over the child back to the custody of petitioner/mother at Pune only. That being the case, it is wholly unjustifiable on part of respondent/father in taking the custody of the child abruptly and without any order of the Court whatsoever. The action on part of respondent/father in doing so is in clear violation of the order of the Family Court as well as this Court. That apart, the conduct of respondent/father shows his disobedience towards the Courts of law and the orders passed. Also this Court perceives that the basic human rights of the child are violated. Without considering all these aspects, the Family Court disposed of I.A.No.VII holding that said application does not survive for consideration. At para 18 of the impugned order, the Family Court, Bengaluru, directed parties to honour the modified order passed by the High Court dated 22.07.2026. To honour the order of this Court dated 22.07.2026, custody should be with mother. However, surprisingly Family Court dismissed



I.A.No.VII. Therefore, this Court is of the view that the order rendered by the Court of II Additional Principal Judge, Family Court, Bengaluru, is required to be set aside.

13. Resultantly, the following

**ORDER**

- i) The Writ Petition is allowed.
- ii) The order rendered by the Court of II Additional Principal Judge, Family Court, Bengaluru, on I.A.No.VII in G & WC No.319/2025 dated 29.07.2026 is set aside.
- iii) Respondent/father is directed to hand over the custody of the minor child by name Kum.Samanvi S. to the petitioner/mother.
- iv) Respondent/father shall produce the child Kum.Samanvi S. before the Court of II Additional



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Principal Judge, Family Court, Bengaluru, at 10.30 a.m. on 25.08.2026.

v) The Court of II Additional Principal Judge, Family Court, Bengaluru shall hand over the custody of the child Kum.Samanvi S. to the petitioner/mother.

vi) For taking the law into his hands, violating the orders of the Family Court as well as this Court and also violating the basic human rights of the child, respondent/father is directed to pay costs of Rs.5,00,000/-.

vii) Out of the costs imposed, a sum of Rs.1,00,000/- shall be paid to the Army Welfare Fund.

viii) The remaining amount of Rs.4,00,000/- shall be deposited by way of Fixed Deposit in any



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nationalized bank in the name of the child Kum.  
Samanvi S.

ix) The child Kum.Samanvi S. is permitted to  
withdraw the amount on attaining the age of  
majority.

x) Respondent/father shall not be permitted to  
conduct the case in G & WC No.319/2025 until  
proof of payment of costs in the manner indicated  
above is produced.

The writ petition is accordingly disposed of.

**Sd/-**  
**(DR.CHILLAKUR SUMALATHA)**  
**JUDGE**

NS,AP  
CT:TSM  
List No.: 1 SI No.: 28