

**WP No. 10663 of 2025
C/W WP No. 21426 of 2024
WP No. 21834 of 2024**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2026

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BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.10663 OF 2025 (GM-FC)

C/W

WRIT PETITION NO.21426 OF 2024 (GM-FC)

WRIT PETITION NO.21834 OF 2024 (GM-FC)

IN WP No.10663/2025

BETWEEN:

THRESI EMMANUEL RAMAPURAM
WIFE OF MATHEN THOMAS THOPPIL,
AGED ABOUT 44 YEARS,
RESIDING AT NO.802,
SILVERLAKE TERRACE APARTMENT,
167 (OLD NO.55),
RICHMOND ROAD,
NEAR TRINITY CIRCLE,
ASHOKNAGAR
BENGALURU-560 025.

...PETITIONER

(BY SRI. SIDDANT S.DARIRA FOR
SRI. ARUN GOVINDARAJ.,ADVOCATES)

AND:

MATHEN THOMAS THOPPIL
SON OF THOMAS VARGHESE,
AGED ABOUT 49 YEARS,
RESIDING AT 902,
NITESH FLUSHING MEADOWS APARTMENT,
WHITEFIELD,
BENGALURU – 560 067.

...RESPONDENT

(BY SMT. ASHIKA GURUNATH FOR
SRI. TEJAS AND SUHAS G.,ADVOCATES)



WP No. 10663 of 2025
C/W WP No. 21426 of 2024
WP No. 21834 of 2024

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 02.07.2024 IN G AND WC NO.120/2023 PASSED BY THE HON'BLE I ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, BENGALURU ON INTERIM APPLICATION NO.X, (ANNEXURE G) AND ETC.

IN WP NO.21426/2024

BETWEEN:

SRI. MATHEN THOMAS THOPPIL
AGED ABOUT 47 YEARS
S/O SRI. THOMAS VARGHESE
RESIDING AT: 902,
NITESH FLUSHING MEADOWS APARTMENT,
WHITEFIELD,
BANGALORE - 560 067.

...PETITIONER

(BY SMT. ASHIKA GURUNATH FOR
SRI. SUHAS G.,ADVOCATES)

AND:

SMT. THRESI EMMANUEL RAMAPURAM,
AGED ABOUT 41 YEARS
W/O SRI. MATHEN THOMAS THOPPIL,
RESIDING AT: 802,
SILVER TERRACE APARTMENT,
167,(OLD NO.55), RICHMOND ROAD,
NEAR TRINITY CIRCLE, ASHOK NAGAR,
BANGALORE-560 025.

...RESPONDENT

(BY SRI.SIDDANT S. DARIRA FOR
SRI. ARUN GOVINDRAJ.,ADVOCATES)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 02.06.2024 AT ANNEXURE-A IN I.A NO. X PASSED BY THE IST ADDL. PRINCIPAL JUDGE, FAMILY COURT AT BENGALURU, IN G. AND W.C. NO. 120 OF 2023.

IN WP NO.21834/2024

BETWEEN:

SRI MATHEN THOMAS THOPPIL
AGED ABOUT 48 YEARS,
S/O SRI. THOMAS VARGHESE,
RESIDING AT:902,
NITESH FLUSHING MEADOWS APARTMENT,
WHITEFIELD,
BANGALORE-560 067.

...PETITIONER

(BY SMT. ASHIKA GURUNATH FOR
SRI. SOMANATHA H.,ADVOCATES)

AND:

SMT THRESI EMMANUEL RAMAPURAM
AGED ABOUT 41 YEARS,
W/O SRI. MATHEN THOMAS THOPPIL,
RESIDING AT:802,
SILVER TERRACE APARTMENT,
167,(OLD NO.55),
RICHMOND ROAD,
NEAR TRINITY CIRCLE,
ASHOK NAGAR,
BANGALORE-560 025.

...RESPONDENT

(BY SRI.SIDDANT S DARIRA FOR
SRI.ARUN GOVINDRAJ, ADVOCATES)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED
ORDER DTD 02.07.24 AT ANNEXURE-A IN IA NO. III PASSED BY
THE I ADDL. PRINCIPAL JUDGE, FAMILY COURT AT BENGALURU
IN G AND WC NO. 120 OF 2023 AND ETC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 10.03.2026 AND COMING ON FOR
PRONOUNCEMENT THIS DAY, THE COURT MADE THE
FOLLOWING:

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

CAV ORDER

The W.P.10663 is filed by the wife seeking to issue writ of certiorari to quash the order dated 02.07.2024 passed in G & WC.No.120/2023 on I.A.No.X passed by the I Additional Principal Judge, Family Court, Bengaluru,('the Family Court' for short) and further seeks issuance of a writ of mandamus directing the husband to pay a sum of Rs.30,000/- per month to each of the minor sons towards maintenance, apart from educational expenses at actuals to be paid directly to the educational institution.

The W.P.No.21426/2024 is filed by the husband seeking to issue writ of certiorari to quash the impugned order dated 02.07.2024 passed on I.A.No.X in G & WC.No.120/2023 passed by the Family Court on the ground that the same is excessive, arbitrary and unsustainable.

The W.P.No.21834/2024 is filed by the father seeking to issue writ of certiorari quashing the impugned

orders dated 02.07.2024 (Annexure A) passed in I.A.No.III and dated 27.04.2024 (Annexure B) passed in I.A.No.XI by the Family Court in G & WC.No.120/2023, and to grant such other reliefs as this Hon'ble Court deems fit in the facts and circumstances of the case, in the interest of justice and equity.

2. The petitioner / wife / mother in W.P.No.10663/2025 is the respondent in W.P.21426/2024 and W.P.No.21834/2024 and the respondent/husband/father in W.P.No.10663/2025 is the petitioner in W.P.21426/2024 and W.P.No.21834/2024.

3. For convenience of reference, the parties are referred as husband/father and wife/mother.

4. The common facts in all the writ petitions are that:-

The husband/father and the wife/mother were married on 02.09.2006 at Chennai in accordance with Christian rites and ceremonies and thereafter relocated to the United States of America on 16.09.2006. Out of the

wedlock, two sons were born, namely Thomas, born on 20.07.2012, aged about 12 years, and Emmanuel, born on 14.04.2017, aged about 7 years at the time of filing the writ petitions, who are presently in the care and custody of the Petitioner. It is the case of the Petitioner that throughout the matrimonial life, she was subjected to physical, verbal, mental, emotional and financial abuse at the hands of the husband, and that in March 2022, following a dispute concerning the husband's alleged infidelity, the husband assaulted the wife and their elder son and thereafter left the matrimonial home for Chennai, deliberately withholding financial support, thereby compelling the Petitioner to reside with her cousin and depend on financial assistance from her family for sustenance.

5. Subsequently, on 05.04.2023, the father instituted proceedings under the Guardians and Wards Act in G&WC No.120/2023 before the Family Court seeking custody of the minor children, to which the wife filed her objections (Annexures-A and B). Parallel proceedings have

also been initiated by both parties, wherein the wife has sought dissolution of marriage and the husband has sought restitution of conjugal rights, both pending before the said Family Court. In the said custody proceedings, an *ex parte* interim visitation order dated 06.04.2023 permitted the husband/father to visit the children every Sunday from 10.00 a.m. to 5.00 p.m.; however, by order dated 14.12.2023, the learned Family Court modified the visitation to the first and third Sundays of every month during the same hours and further directed the Respondent to pay Rs.40,000/- towards maintenance and to bear the educational expenses of the minor children (Annexure-C).

6. Aggrieved thereby, the father preferred W.P.No.3657/2024 (GM-FC) before the Co-ordinate bench of this Court, and by order dated 21.02.2024, this Court set aside the order dated 14.12.2023 and remanded the matter to the Family Court with liberty to the mother to file an application for maintenance, while modifying visitation to the second and fourth Sundays from 10.00 a.m. to 5.00

p.m. (Annexure-D). Pursuant thereto, the mother filed an I.A.No.X under Section 12 of the Guardians and Wards Act read with Section 36 of the Indian Divorce Act, 1869, in G&WC No.120/2023, seeking maintenance of Rs.1,85,000/- per month and litigation expenses of Rs.5,00,000/-, to which the husband filed objections (Annexures-E and F). The learned Family Court, by order dated 02.07.2024, partly allowed the said application, directing payment of Rs.40,000/- per month as interim maintenance, Rs.60,000/- per month towards educational expenses, arrears from the date of application, and litigation expenses of Rs.25,000/- (Annexure-G). The husband has challenged the said order in W.P.No.21426/2024, which is pending consideration (Annexure-H), and the wife being aggrieved, has instituted the W.P.No.10663/2025 for enhancement of maintenance.

7. Insofar as custody and visitation are concerned, the husband who had instituted G&WC No.120/2023 seeking custody of the minor children had also filed

interlocutory applications in I.A.No.III and I.A.No.XI seeking interim custody, including custody during vacations, and for expanded visitation rights. The Family Court, upon consideration of the material on record and interaction with the minor children, by order dated 02.07.2024, declined the prayer for interim custody.

8. By the very same order, the Family Court regulated the visitation rights of the husband by restricting his access to the minor children to the first and third Saturdays of every month between 11:00 a.m. and 2:00 p.m., to be exercised in the visitation room of the Family Court, and also granted limited telephonic and video call interaction. Aggrieved by the rejection of interim custody and the restrictive nature of visitation, the husband has challenged the said order in W.P.No.28134/2024.

9. The learned counsel for the wife in W.P.No.10663/2025 would contend that the impugned order was passed mechanically and failed to accord paramount consideration to the welfare and best interests

of the minor children. It is urged that the Family Court has erred in arbitrarily quantifying educational expenses at Rs.60,000/- per month without considering the actual and progressively increasing costs of education in a reputed institution. Despite the husband admitting that he has been bearing educational expenses, the Family Court failed to direct payment of such expenses at actuals directly to the educational institution, and instead fixed an inadequate amount, thereby placing an unjust burden upon the wife, who is stated to be unemployed and without independent income. The wife also contends that the award of Rs.40,000/- per month towards maintenance for herself and two children is wholly inadequate, particularly having regard to the standard of living and cost of living in Bengaluru.

10. The wife further contends that the Family Court has failed to properly assess the true income and financial capacity of the husband, who is alleged to have suppressed material particulars relating to bonus, investments and

other sources of income, and whose liabilities, including housing loan, have subsequently been discharged. It is also contended that the conduct of the husband in discontinuing financial support and restricting access to financial resources has not been duly appreciated. Further, the Family Court failed to consider relevant factors, including extracurricular expenses and the actual needs of the children, and is therefore unjust, inadequate and liable to be modified.

11. The learned counsel for the husband in W.P.No.21426/2024 would contend that the impugned order is erroneous, arbitrary and passed without proper appreciation of the material on record. It is urged that the Family Court has incorrectly taken the gross salary of Rs.2,41,760/- as the basis for determining maintenance, without considering that the net income is substantially lower after statutory deductions. The Family Court has failed to take into account the financial liabilities of the husband, particularly the monthly EMI of Rs.44,710/-

towards a housing loan, and other expenses, thereby imposing an excessive and unsustainable financial burden. The husband also contends that the wife is gainfully employed as a Director of a private company and is deriving income from other sources, which has not been properly considered.

12. It is further contended that the wife is highly qualified, possessing advanced degrees in finance and accountancy, and is capable of maintaining herself. The Family Court is stated to have failed to draw adverse inference against the wife for non-disclosure of income tax returns and financial details, despite proceedings initiated for such disclosure. It is also contended that the direction to pay Rs.60,000/- per month towards educational expenses is unwarranted, as the husband has been directly paying school fees, including substantial payments towards the academic year 2024–2025, and therefore, the direction to pay such amount to the wife is unjustified. On these

grounds, the husband seeks quashing of the impugned order.

13. The learned counsel for the petitioner/father in W.P.No.21834/2024 would contend that that insofar as I.A.No.III filed under Section 12 of the Guardian and Wards Act, 1890, read with Section 151 of the CPC is concerned, the he had sought interim custody/visitation rights in respect of the minor children. However, the Family Court has granted visitation rights to the father only on the first and third Saturdays of each month. The visitation so granted, i.e., only on two Saturdays in a month between 11:00 a.m. to 2:00 p.m. in the designated visitation room of the Family Court, is grossly inadequate, mechanical, and does not subserve the welfare and best interests of the minor children.

14. It is contended that the impugned arrangement, being limited to approximately 3 hours per visit and restricted to a controlled Court environment, effectively amounts to only about 24 visits per year, which is wholly

insufficient for meaningful parent-child interaction and fails to facilitate development of emotional bonding between the father and the minor children. The Family Court has failed to appreciate that the welfare of the minor children is the paramount consideration in matters of custody and visitation, and that denial of adequate interaction with the father would adversely affect the emotional well-being of the children and may lead to loss of affection and detachment over time.

15. It is contended that the petitioner had also sought more liberal visitation rights, including interim custody during holidays and vacations, access on birthdays of the children, as well as birthdays of the Petitioner and grandparents, and unrestricted telephonic access; however, the same has not been adequately considered by the learned Family Court. The impugned order, therefore, suffers from serious infirmities inasmuch as it fails to balance the competing interests and does not meaningfully address the welfare-centric approach mandated under law.

16. Heard learned counsel appearing on either side.

17. This Court has given its anxious consideration to the rival submissions in W.P.No.10663/2025 and W.P.21426/2024 and perused the material on record. It is not in dispute that the impugned order is one granting interim maintenance pending adjudication of the main proceedings. The Apex Court in ***Rajnish v. Neha*** reported in ***(2021) 2 SCC 324***, has laid down that maintenance must be realistic, just and commensurate with the financial capacity of the husband, and sufficient to ensure that the wife and children are able to maintain a standard of living similar to that of the matrimonial home. It has also emphasized the necessity of disclosure of assets and liabilities and holistic consideration of all relevant factors.

18. In the present case, the Family Court has taken into account the income of the husband, who is earning a gross monthly salary of Rs.2,41,760/-. The contention that only the net salary ought to be considered cannot be

accepted in a rigid manner. The overall earning capacity and financial status of the husband are relevant considerations. The plea of the husband regarding deductions towards housing loan EMI and other liabilities cannot override his primary obligation to maintain his wife and minor children. Financial commitments voluntarily undertaken cannot be used to defeat the legitimate claim of dependents. At the same time, the allegation of the wife regarding suppression of additional income has not been substantiated by cogent material at this stage. The Family Court has proceeded on the basis of affidavits of assets and liabilities, which is in consonance with the law laid down in ***Rajnesh v. Neha.***

19. The contention of the husband that substantial deductions towards housing loan EMI and other financial liabilities ought to proportionately reduce his maintenance obligation cannot be accepted in its entirety. Repayments towards loans, particularly those resulting in acquisition or creation of assets, are in the nature of voluntary financial

commitments and cannot take precedence over the statutory obligation to maintain the wife and minor children. While genuine and unavoidable liabilities may be borne in mind to assess overall financial capacity, such deductions cannot be permitted to dilute the husband's primary duty of ensuring a reasonable and dignified standard of living to his dependents.

20. However, this Court finds that the quantum of maintenance to the children determined by the Family Court requires modification. While the contention of the wife that the amount awarded is inadequate merits acceptance to a certain extent, the objections raised by the husband regarding his financial liabilities and overall obligations also require due consideration. The determination of maintenance must strike a balance between the needs of the dependents and the paying capacity of the husband. The consolidated sum of Rs. 40,000/- awarded towards maintenance of wife and two minor children does not reflect such balanced assessment,

particularly having regard to the cost of living in a metropolitan city like Bengaluru.

21. Insofar as educational expenses are concerned, the Family Court has fixed a sum of Rs.60,000/- per month. Such fixation, in the opinion of this Court, is fundamentally flawed. Educational expenses are not static and cannot be subjected to a rigid upper limit. The expenses towards education depend upon the fee structure prescribed by the particular institution, including tuition fees, transport charges, books, uniforms and other incidental charges. Therefore, any artificial capping of such expenses would be contrary to the welfare of the children.

22. This Court is of the considered view that the husband cannot be permitted to contend that he will pay only a fixed sum towards education. If the children are studying in a particular institution, the father is bound to bear the actual educational expenses as demanded by the institution. Payment of educational expenses directly to the

school authorities ensures transparency and continuity in the education of the children. However, such payment cannot be treated as a substitute for maintenance. Educational expenses and maintenance operate in distinct spheres. While educational expenses cater to schooling, maintenance addresses the day-to-day sustenance and well-being of the wife and children. Both are independent and must be provided for adequately.

23. The impugned order, by fixing Rs.60,000/- as a composite figure towards educational and extracurricular expenses, fails to appreciate this distinction and therefore warrants interference. The contention of the husband that the wife is gainfully employed has not been substantiated by acceptable material. Mere assertions without documentary proof cannot be accepted at this stage to deny maintenance. However, her educational qualifications and potential earning capacity may be considered at the stage of final adjudication. At the interim stage, the

immediate financial needs of the wife and children must take precedence.

24. In view of the foregoing discussion, this Court is of the opinion that the impugned order warrants modification. Having regard to the income of the husband, the needs of the minor children, and the overall facts and circumstances of the case, this Court deems it appropriate to re-determine the quantum of maintenance by awarding a sum of Rs.15,000/- per month to each of the minor children and Rs.40,000/- per month to the wife, in substitution of the consolidated amount awarded by the Family Court, while maintaining the direction regarding payment of educational expenses at actuals.

25. In view of the foregoing discussion, this Court is of the considered opinion that the impugned order dated 02.07.2024 passed by the Family Court warrants interference and modification to the extent indicated herein.

26. Having given anxious consideration to the rival submissions, this Court in W.P.No.21834/2024 is of the considered view that the scope of interference under Article 227 of the Constitution of India, in matters arising out of interlocutory orders relating to custody and visitation, is limited. Unless the order passed by the Family Court is shown to be perverse, arbitrary or suffering from jurisdictional error, this Court would be slow to interfere with the discretionary exercise undertaken by the Court of first instance, particularly in matters concerning welfare of minor children.

27. It is trite that in proceedings under the Guardian and Wards Act, 1890, the paramount consideration is the welfare and best interests of the minor children. In the present case, the Family Court has taken into consideration the pleadings, the material placed on record, as well as the interaction held with the minor children. The Family Court has recorded that the children expressed reluctance and discomfort, and has also noted the nature of allegations

between the parties. Based on such assessment, the Family Court has declined interim custody and has structured a regulated visitation mechanism.

28. Insofar as denial of interim custody is concerned, this Court finds that the same is based on a *prima facie* assessment of the circumstances prevailing as on the date of the impugned order. At an interlocutory stage, where the matter is yet to be fully adjudicated, the Family Court is justified in adopting a cautious and calibrated approach. Such an approach cannot be termed as either illegal or perverse so as to warrant interference.

29. With regard to the grievance that the visitation granted is restrictive, it is to be noted that the Family Court has consciously provided for supervised visitation within the Court premises, having regard to the attending circumstances and the expressed inclination of the children. The nature, duration and place of visitation are matters falling within the discretion of the Family Court,

which is presently dealing with the matter and is better placed to assess the welfare requirements of the children.

30. It is further observed that the contention that the visitation arrangement is insufficient to foster meaningful bonding cannot, in the facts of the present case, be a ground to interfere at this stage. The arrangement made by the Family Court is only an interim measure, subject to variation upon change in circumstances or upon further material being placed on record. It is always open to the parties to seek modification before the Family Court, which is empowered to revisit the arrangement in the best interests of the children.

31. This Court is also of the view that the interaction with the children and their expressed comfort levels cannot be lightly disregarded at this stage. While such interaction may not be conclusive, it certainly constitutes a relevant factor for determining interim arrangements. The Family Court, having had the advantage of directly interacting

with the children, has exercised its discretion in a manner that balances caution with limited access.

32. In the absence of any material to demonstrate that the discretion exercised by the Family Court is arbitrary, capricious or contrary to settled principles governing custody matters, this Court finds no justification to substitute its own view in place of that of the Family Court.

33. The supervisory jurisdiction of this Court is not intended to re-appreciate the material or to substitute a different visitation framework merely because another view is possible. Interference is warranted only when there is patent illegality or manifest injustice, neither of which is made out in the present case. In the absence of any material to demonstrate that the discretion exercised by the Family Court is arbitrary, capricious or contrary to settled principles governing custody matters, this Court

finds no justification to interfere with the impugned order dated 02.07.2024 at this stage.

34. However, having regard to the nature of the dispute and the interests of the minor children, this Court is of the view that the ends of justice would be met by directing expeditious disposal of the main petition pending before the Family Court. Accordingly, while upholding the impugned order, this writ petition is disposed of with a direction to the Family Court to dispose of G & W.C. No.120/2023, as expeditiously as possible in accordance with the Child Access Custody Guidelines parenting plan, 2025 by the Calcutta High Court guidelines which is also adopted by the Division Bench of this Court.

35. In the result, this Court proceeds to pass the following:-

ORDER

In W.P.No.10663/2025 and W.P.No.21426/2024:

(i) *W.P.No.10663/2025 and W.P.No. 21426/2024 are **disposed of.***

*(ii) The impugned order dated 02.07.2024 passed on I.A.No.X in G&WC No.120/2023 by the I Additional Principal Judge, Family Court, Bengaluru, is **modified**.*

(iii) The husband shall pay maintenance of Rs.15,000/- per month to each of the minor children and Rs.40,000/- per month to the wife, aggregating to Rs.70,000/- per month, payable from the date of application.

(iv) The husband shall, in addition, pay the entire educational expenses of the minor children at actuals, as and when demanded by the respective school/educational institutions, without any monetary cap, and such payment shall be made directly to the institutions.

(v) In the event the wife has already incurred and paid any educational expenses of the minor children to the concerned school/educational institutions, the husband shall reimburse the same to the wife, upon production of proof of such payment.

(vi) The husband shall also bear reasonable expenses towards extracurricular activities, books, uniforms, medical needs of the children.

(vii) The direction regarding payment of Rs.25,000/- towards litigation expenses shall remain unaltered.

In W.P.No.21834/2024:

*(i) The W.P.No.21834/2024 is **disposed of**.*

(ii) The impugned order dated 02.07.2024 passed by the Family Court in G & W.C. No.120/2023 on I.A.No.III and I.A.No.XI is upheld.

(iii) The Family Court shall dispose of the main petition as expeditiously as possible.

(iv) Both parties shall co-operate and ensure that the children are not subjected to any distress.

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It is made clear that the observation made herein are only for the purpose of all the writ petitions and shall not influence the final adjudication in G & WC.No.120/2023.

Pending interlocutory applications, if any, shall stand disposed of.

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

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