

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 5th day of June 2026 / 15th Jyaishta, 1948

OP (FC) NO. 170 OF 2026(R)

ORDER DATED 09/12/2025 IN IA 6/2025 IN OP 502/2025 OF FAMILY COURT, KOZHIKODE

PETITIONER/PETITIONER IN I.A:

[REDACTED]

RESPONDENT/RESPONDENT IN I.A:

[REDACTED]

OP (Family Court) praying inter alia that in the circumstances stated in the affidavit filed along with the OP (FC) the High Court be pleased to direct the respondent to produce the minor child before this Hon'ble Court and to grant the petitioner interim custody of the minor child pending disposal of this Petition.

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of OP (FC), this Court's order dated 04/06/2026 and upon hearing the arguments of M/S. NIRMAL.S, VEENA HARI, VARUN MURALEEDHARAN, MERIN JOSE & LAMIYA SHANAVAZ, Advocates for the petitioner, SMT. REMASMRITHI V K, Advocate for the respondent, ADV.TANUJA ROSHAN, CLAP LAWYER and of ADV.SALLY THOMAS CHACKO, SENIOR MEDIATOR, the court passed the following:

P.T.O.

FRIDAY, THE 5TH DAY OF JUNE 2026

OP (FC) No. 170 of 2026

SREEDHANYA BHASKARAN

VS

BALAKRISHNAN.V.S & ANOTHER

ADVS FOR PETITIONER/S:

SHRI.NIRMAL.S, SMT.VEENA HARI, SHRI.VARUN MURALEEDHARAN, SMT.MERIN JOSE, SMT.LAMIYA SHANAVAZ

ADVS FOR RESPONDENT/S:

SMT.V.K.REMASMRITHI, No Advocate

ORDER

Shoba Annamma Eapen, J.

This is a case of a 6-year-old boy child, being traumatized by the matrimonial dispute between his parents, which is pending before the Family Court, Kozhikode. The petitioner has approached this Court challenging Ext.P1 order of the Family Court, which pertains to the interim custody of the minor child. The petitioner and the respondent herein are wife and husband respectively.

2. When this case came up on 16.03.2026, the parties were directed to appear before this Court along with the child on 31.03.2026. However, on 31.03.2026, though the petitioner/mother appeared, the respondent/father was absent and the child was not produced. Hence, the case was adjourned to 07.04.2026, directing the respondent/father to produce the child. Thereafter, on 01.04.2026, the respondent/father appeared with the minor child; and the petitioner/mother, who was at Ernakulam on that day, reached this Court as informed through counsel.

Accordingly, this Court passed an interim order on the same day as follows:

“Though this case was posted to 07.04.2026, on the basis of the submission made by the learned counsel for the respondent, the case is listed to today. On 16.03.2026, there was a direction to the respondent to bring the child to this Court on 31.03.2026 at 10 am. However, the said direction was not complied with by the respondent and the case was adjourned to 07.04.2026 to produce the child.

2. However, today the respondent and the child appeared before this Court at 10.15 am. Thereafter, the petitioner was informed through the counsel and she also reached the court around 12.30 pm. We had interacted with the petitioner, the respondent and the minor child. The learned counsel appearing on both sides were also heard. The interim prayer sought for is to direct the respondent to produce the minor child before this court and to grant the petitioner the interim custody of the minor child. Since the respondent submitted that the academic year is not over and the school closes only on 27th of April, 2026, we found it appropriate not to interfere with the order passed by the family court regarding custody for the time being. The Family Court, as per order in I.A.No.6/2025, has directed as follows:-

“1) As of now, the custody of the minor child Siddharth.B.Vazhoor shall remain with the respondent.

2) The petitioner shall be entitled for the custody of the minor child during all vacation including summer vacation. On the first day of the vacation, the child must be brought to Kozhikode by the respondent and the child is to be taken back by the respondent from Kozhikode 2 days prior to the closing of the vacation. As far as the summer vacation is concerned, the custody of the minor child shall commence from the first day of vacation and for facilitating the child to slowly return to his academic activities, the respondent can take back the child from Kozhikode, 2 weeks prior to the re-opening of the school for the new academic year.

3) On all other days, when the respondent is keeping the custody of the child, the petitioner can see and interact with the child through video call on every Wednesdays and also during weekends and other public holidays in Chennai between 7 pm and 7.30 pm. The respondent shall duly inform the petitioner about such holidays in advance so she can avail her right of interaction with the child.”

3. The respondent is directed to strictly comply with the directions given in Ext.P1. The respondent is further directed to send the examination time table and the details of commencement of vacation holidays to the petitioner-mother within two days and shall file before this court the details regarding the closing of the school for summer vacation and the re-opening date.

4. The Secretary of DLSA, Kozhikode is directed to be present at the time of handing over of the minor child to the petitioner by the

respondent. The Secretary DLSA, Kozhikode shall also seek police assistance, if necessary to see that the custody of the child is given to the mother as directed by the family court. The learned counsel appearing on both sides shall take appropriate steps to intimate the Secretary of DLSA, Kozhikode in advance regarding the date of arrival of the child and the time of entrustment of the child to the petitioner-mother.

5. The Registry shall send this order along with a copy of the original petition to the Secretary, DLSA, Kozhikode forthwith. The Secretary, DLSA, Kozhikode shall file a report to this Court regarding the handing over of the minor child to the petitioner.

Post on 07.04.2026 to enable the respondent to file the details regarding the school closing and re-opening dates.”

However, handing over of the child to the petitioner/mother was after a great effort by the Secretary, District Legal Services Authority (DLSA), Kozhikode. Finally, custody of the child was given to the petitioner/mother as directed by this Court on 07.04.2026 and the case was posted to 08.06.2026. Thereafter, the respondent/father filed a petition seeking modification of the interim orders dated 01.04.2026 and 07.04.2026 before the vacation court; and this Court declined to modify the interim orders and the case was posted to 22.05.2026.

3. When the case came up for consideration on 22.05.2026, it was submitted that the child is staying happy with the petitioner/mother. The case was then posted to 04.06.2026. On 04.06.2026, the case was adjourned to today, directing the petitioner/mother to produce the child. It was also ordered that the respondent/father need not appear today. We directed so, as we wanted to interact with the child freely and to understand the child's thought processes, without interacting with the father and mother.

4. When the case was taken up this morning, we directed the parties to appear in Chambers after the completion of the list. We came down to the Chambers at about 11:45 am to interact with the child alone. When the child was called into Chambers, he was hesitant to come alone though he was familiar with us having interacted with us on 07.04.2026. Instead, he stood with the mother, clutching her hand tightly. When the child appeared before this Court in the morning, he appeared to be very energetic and happy. However, when he entered Chambers with his mother for interaction, and the mother was asked to leave, the child held her hand tightly, did not allow her to leave, and appeared visibly distressed and disturbed. Hesitantly, the mother told us that some untoward incident happened in the court hall. At that time, Adv.Merin Jose, who is the junior lawyer attached to the office of Adv.Nirmal S., the learned counsel for the petitioner, came to the Chambers and informed us that while the petitioner/mother and the child were sitting in the last row of the court hall along with Adv.Merin Jose, another lawyer, whose identity is yet to be ascertained, entered the court hall and walked towards the child and said to him, "മനുവല്ലേ? അച്ഛൻ താഴെ wait ചെയ്യുന്നുണ്ട്" (English translation: Are you not Manu, father is waiting down). The junior lawyer immediately questioned him about the remark. Without answering, he left the court hall and took the escalator to the second floor. It was submitted before us that after this incident, the child, who was very comfortable with the petitioner/mother, became disturbed and frightened. Due to this

unexpected incident, we could not interact with the child; he was holding his mother's hand tightly, without leaving her. Though, as ordered on 07.04.2026, the custody of the child ought to have been given to the father, having noticed the child's emotional distress and the worried and fearful expression on his face, we directed the mother to take the child and leave the court premises.

5. Immediately thereafter, the learned counsel for the petitioner as well as the respondent were called to the Chambers. We asked about the lawyer who had entered the court hall and conveyed the message to the child; however, they stated that they were not aware of him. At that stage, the learned counsel for the respondent/father, sought reference of the matter to the Mediation Centre attached to this Court. The learned counsel for the petitioner also agreed to that. The learned counsel for the respondent further submitted to refer for mediation next week since the school of the child reopens on 11.06.2026. But, having noticed the emotional distress, trauma and restlessness of the child consequent upon the message conveyed to the child by the lawyer, we are of the view that it would be appropriate to grant the interim custody of the child to the mother for the time being.

6. On verification of the Video conferencing platform - Vconsol recording of the court hall and the CCTV footage of the court corridor, we are convinced that an unidentified lawyer entered the court hall and spoke to the child who was sitting at the last row and immediately left

the court hall and then rushed through the corridor and took the escalator to the second floor. We could also see Adv.Merin Jose, who was sitting together with the mother and child, immediately leaving the court hall in search of the unidentified lawyer.

7. Today's untoward incident in the court hall has deeply disturbed us, especially, since there was a specific direction exempting the respondent father from personal appearance. The message that the father was present and waiting was conveyed to the child with ulterior motives. It was also incumbent upon the counsel concerned to advise the client appropriately. We also express our displeasure at the counsel's failure to advise and restrain the client. On enquiry, we are also informed by the security personnel of this Court that the respondent/father was present in the court premises in the morning and he was waiting in the facilitation centre, but the permission to enter the court building was denied.

8. The lawyer, who unauthorisedly approached the child in the court hall and showed the courage to convey the message to the child about the arrival of the father, has done great injustice to the court as well as to the minor child. A lawyer's duty extends beyond the client to the court, to the administration of justice and to the society at large. As an officer of the court and a guardian of the Rule of Law, a lawyer must uphold the constitution of India, assist in the dispensation of justice and ensure that legal expertise is not employed to perpetuate illegality or

injustice. The profession demands a commitment to the public good. But for the said incident, the child would have remained comfortable, and we could have interacted with him to arrive at a proper conclusion. This interim order is being reported to remind the members of the Bar, the oath taken on the day of enrolment - to bear true faith and allegiance and to maintain the respect due to courts by upholding the ethical duties and moral values of the profession.

9. In Ext.P13 judgment of this Court in an earlier OP(FC) No.612 of 2025 filed by the mother for custody, this Court had observed in paragraph 15 as follows:

“15. Be that as it may, we interacted with the parties again today; and we allowed the mother and the child to be within our Chambers for over one and a half hours, when we were in Court continuing with our work. The entire interaction has been recorded by the Registry of this Court and is available. It shows without any doubt that the child is comfortable with the mother; and that they were playing each other. However, the moment the father was invited to the Chambers thereafter, the child suddenly became apprehensive and withdraw from the mother.

10. Having regard to the psychological trauma and discomfort caused to the child, Adv.Thanuja Roshan, Child Support Lawyer (CSL) under the Child Legal Assistance Program (CLAP) of the KeLSA is appointed to interact with the child and, if possible, with the parents, and submit a report to this Court. The Registry is directed to show the name of Adv.Tanuja Roshan in the cause list and shall serve copies of this original petition and the orders passed in this case to the CLAP lawyer, to enable her to file a report.

11. The Registry is further directed to store and save today's Video conferencing platform - Vconsol recording of the proceedings in the court hall, viz., Court-1C, on the first floor and also today's CCTV footage in front of the court hall corridor. The Registry is further directed to trace out the male lawyer, who entered the court hall and approached the child unauthorisedly and conveyed the message to the child during the court proceedings, and report the same immediately to this Court. The Registry shall seek the assistance of the Kerala High Court Advocates' Association, the Bar Council of Kerala or any other organisation to identify the lawyer, who had unauthorisedly approached the child and conveyed the message.

12. Since both sides have expressed their willingness to settle the dispute, the petitioner and the respondent are directed to appear before the Mediation Centre attached to this Court on 15.06.2026 at 10.15 am. We appoint Adv.Sally Thomas Chacko, Senior Mediator, as the mediator.

Post on 19.06.2026.

Sd/-

J. NISHA BANU

JUDGE

Sd/-

SHOBA ANNAMMA EAPEN

JUDGE

APPENDIX OF OP (FC) 170/2026

Exhibit P1

TRUE COPY OF THE ORDER IN IA 6/2025 DATED 09.12.2025.

Exhibit P13

TRUE COPY OF THE JUDGEMENT IN OP(FC) 612/2025 DATED
4.11.2025.



Lawchakra.in