

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

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BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.5971 OF 2026 (GM-FC)

C/W

WRIT PETITION NO.4443 OF 2026 (GM-FC)

IN WP No.5971/2026

BETWEEN:



...PETITIONER

(BY SRI. ANANT MANDGI, SENIOR ADVOCATE FOR
SRI.AMIT A MANDGI.,ADVOCATE)

AND:

1.

2.

...RESPONDENTS

(BY SRI. SANTOSH S.GOGI, ADVOCATE FOR C/R1 AND R2)

WP No. 5971 of 2026
C/W WP No. 4443 of 2026

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 12/01/2026 PASSED BY THE LEARNED V ADDL. DISTRICT JUDGE, BENGALURU RURAL DISTRICT SITTING AT DEVANAHALLI IN PROCEEDINGS BEARING G AND WC NO. 15010 OF 2025 WHICH HAD DISMISSAL IA NO. V FILED BY THE PETITIONER HEREIN (ANNX-A) AND CONSEQUENTLY, TO ALLOW IA NO. V FILED BY THE PETITIONER HEREIN.

IN WP NO.4443/2026

BETWEEN:

...PETITIONER

(BY SRI. ANANT MANDGI, SENIOR ADVOCATE FOR
SRI.AMIT A MANDGI.,ADVOCATE)

AND:

1.

2.

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...RESPONDENTS

(BY SRI. SANTOSH S.GOGI, ADVOCATE FOR C/R1 AND R2)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE COMMON ORDER DATED 12.01.2026 PASSED BY THE LEARNED V ADDITIONAL DISTRICT JUDGE, BENGALURU RURAL DISTRICT SITTING AT DEVANAHALLI IN PROCEEDINGS BEARING G AND W.C. NO. 15010 OF 2025 WHICH HAD ALLOWED I.A. NO. III FILED BY THE RESPONDENTS.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 27.03.2026 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.No.5971/2026 is filed challenging the order dated 12.01.2026 passed by the learned V Additional District Judge, Bengaluru Rural District, sitting at Devanahalli ('the Family Court' for short), in G & W.C.No.15010/2025, whereby I.A.No.5 filed by the petitioner came to be dismissed, seeking issuance of a writ of certiorari to quash the said order and consequently to allow I.A.No.5.

The W.P.No.4443/2026 is filed to issue writ of certiorari and quash the impugned order dated 12.01.2026 passed by the learned V Additional District Judge, Bengaluru Rural District, sitting at Devanahalli ('the Family Court' for short), in G &

W.C.No.15010/2025, whereby I.A.No.III filed by the respondents herein came to be allowed.

2. The petitioner herein/mother is the respondent before the family Court and the respondents herein are the petitioners before the Family Court.

3. The petitioner herein is the mother of the minor child and the respondent No.1 herein is the grand mother and respondent No.2 is the Aunt of the minor child.

4. For convenience of reference, the parties herein are referred to as per their rankings before this Court.

5. The brief facts of the case are that:-

The petitioner is the wife of late
Their marriage was solemnized on 29.03.2009 at Mumbai as per Hindu rites and customs and was registered on 03.07.2010 under the Hindu Marriage Act, 1955. Out of the wedlock, a daughter, namely Ms. _____ was born on 20.06.2012. The petitioner asserts that she is the natural guardian of the minor child under Section 6 of the Hindu Minority and Guardianship Act, 1956. The respondent No.1 is the mother of

the deceased and respondent No.2 is the sister of the deceased.

6. After the marriage, the petitioner and her husband commenced their matrimonial life at rented premises at Bengaluru, and thereafter resided at various rented accommodations in Bengaluru. At the time of marriage, the deceased was employed as a Senior Corporate Executive with Accenture (India), Bengaluru. In October 2011, respondent No.1 shifted from Delhi to Bengaluru and, according to the petitioner, continuously interfered in the marital life of the couple, even after the birth of the minor child in June 2012.

7. It is stated that the deceased ventured into business from the year 2014 by co-founding Aperon Realty Private Limited with one Mr. Vikas Katoch, and in 2015 started Purpleyo Technologies Private Limited with one Mr. Karan Chopra. Both ventures failed. In 2017, the deceased co-founded TableSpace Technologies Private Limited along with Mr. Kunal Mehra, Mr. Srinivas Prasad and Mr. Karan Chopra, which subsequently achieved considerable commercial success.

It is relevant that respondent No.2 is married to the said Mr. Karan Chopra.

8. From 01.09.2018 to 31.03.2023, the petitioner and the deceased resided in a rented apartment bearing Flat No.001 at Embassy Casabella, Bengaluru, which, owing to the attachment of the family and out of affection towards the petitioner, was later purchased in her name by a registered Sale Deed dated 03.04.2023. In mid-2023, an apartment bearing No.304 at Van Gogh's Garden, Bengaluru, was allotted to the deceased by TableSpace Technologies Private Limited, where the petitioner, the minor child and respondent No.1 resided from June 2023. On 14.06.2023, the deceased also purchased Villa No.127 at Prestige Golfshire, Devanahalli, which was furnished by mid-2024.

9. It is the case of the petitioner that the deceased suffered from serious ailments affecting his liver and lungs and had longstanding habits of excessive smoking and alcohol consumption, which intensified after the success of TableSpace Technologies Private Limited post-2017. Despite repeated requests by the Petitioner, the deceased continued such habits, resulting in deterioration of his health and behavioural changes,

including irritability and marital discord. In mid-2024, owing to his illness and mental condition, the deceased advised the petitioner and the minor child to reside at the Van Gogh residence so as to insulate them from his condition, while he resided at the Golfshire villa. The petitioner states that she periodically ensured that the minor child stayed with the deceased at the Golfshire villa and, during such visits, found him in an inebriated and unstable condition.

10. The deceased passed away on 06.01.2025 due to chronic obstructive pulmonary disease. Thereafter, the petitioner, the minor child and respondent No.1 resided at Villa No.127, Prestige Golfshire. During his lifetime the deceased, had amassed substantial assets and was holding the position of Founder Chairman, Director and Chief Executive Officer of TableSpace Technologies Private Limited. It is stated that after the demise of the deceased, disputes arose between the petitioner and respondents regarding the estate. According to the petitioner, respondents, under the influence of respondent No.2 and her husband Mr. Karan Chopra (who assumed control as Chairman, Co-CEO and Director of TableSpace Technologies Private Limited), sought to compel the petitioner to accept an

unfavourable and minimal share in the estate and exerted continuous pressure upon her and her parents.

11. In this background, the petitioner, for herself and on behalf of the minor child, instituted P&SC No.3/2025 on 02.05.2025 before the Principal Senior Civil Judge and JMFC, Devanahalli seeking a succession certificate. The said proceedings were intimated to TableSpace Technologies Private Limited by letter dated 03.05.2025. Immediately thereafter, on 05.05.2025, a notice was caused to be issued in the name of TableSpace Technologies Private Limited by Mr. Karan Chopra calling upon the petitioner to vacate the Van Gogh residence within 72 hours, followed by a reminder notice dated 07.05.2025 issued within 48 hours. The petitioner vacated the premises on 08.05.2025. The petitioner thereafter instituted a partition suit in O.S. No.68/2025 before the competent Court at Devanahalli, wherein an ex parte ad interim order dated 15.05.2025 was granted restraining Respondent No.1 and TableSpace Technologies Private Limited from alienating the schedule properties.

12. On 29.05.2025, respondents No.1 and 2 instituted proceedings under Sections 7 and 10 of the Guardian and

Wards Act, 1890 ('the G & WC Act' for short) in G&W.C.No.15010/2025 seeking to be appointed as guardians of the person and property of the minor child and also seeking injunction restraining the petitioner from interfering with custody. Along with the said petition, I.A.No.II under Section 12 of the Act and I.A. No.III under Order XXXIX Rules 1 and 2 CPC were filed. On 31.05.2025, the learned District and Sessions Judge, Bengaluru Rural (Vacation Bench) passed an *ex parte* order of temporary injunction restraining the petitioner from forcibly interfering with the custody of the minor child. The proceedings were subsequently transferred and renumbered before the learned V Additional District Judge, Bengaluru Rural, Devanahalli.

13. The petitioner entered appearance on 16.06.2025 and filed her statement of objections and I.A.No.V under Order XXXIX Rule 4 of the CPC seeking to vacate the *ex parte* order dated 31.05.2025. On 08.07.2025, the petitioner filed a counter claim under Sections 7, 17 and 25 of the G & WC Act, r/w. Sections 6 and 13 of the Hindu Minority and Guardianship Act, 1956 seeking to be declared as guardian and for permanent custody of the minor. The respondents filed their objections on 21.07.2025 and 06.08.2025, and the petitioner

filed objections to I.A.No.II filed by the respondents herein under section 12 of the Guardian and Wards Act, 1890 to appoint them as guardian of person and property of minor child, , on 21.08.2025 . During the pendency of the proceedings, the minor child was interviewed by the Family Court on 29.11.2025.

14. Based on the pleadings, oral and documentary evidence, the Family Court by order dated 12.01.2026, allowed I.A. No.III filed by the respondents and dismissed I.A.No.V filed by the petitioner, thereby continuing the restraint against the petitioner and denying her visitation. Aggrieved by the said common order, the petitioner has filed present writ petition.

15. The learned Senior counsel for the petitioner in both the petitions would contend that the proceedings have been initiated by the grandmother and aunt seeking custody of the minor child as against the mother, who is the natural guardian, physically and mentally fit, and fully capable of safeguarding the welfare and best interests of the child. Further contended that the impugned order is in contravention of Section 6 of the Hindu Minority and Guardianship Act, 1956, which recognises the mother as the natural guardian after the father, and the

Family Court has failed to give due weight to such statutory mandate.

16. It is contended that the Family Court has failed to consider the pleadings and documents placed on record, including the fact that the minor child was in the continuous care and custody of the petitioner from birth till May 2025, and that the petitioner has attended to all aspects of the child's upbringing, including medical care, vaccinations, school admission, payment of fees, attendance at parent-teacher meetings, co-curricular activities and overall social and emotional development, including care taken during the COVID period in 2020. The Family Court has erred in allowing I.A. No.III without adjudicating the competing applications for custody, including I.A.No.II filed by the respondents and the applications filed by the petitioner, thereby rendering the said applications, including those seeking custody, visitation and communication (I.A. Nos. VI to X), infructuous.

17. It is contended that respondent No.1 is aged about 74 years and suffers from age-related ailments including blood pressure issues and is not in a position to attend to the daily needs of the minor child, who is engaged in academic and co-

curricular activities such as tennis and dance, whereas respondent No.2 has her own family obligations. The petitioner asserts that she is financially, socially and emotionally capable of caring for the minor, who, being a girl in her adolescent age, requires the care and company of her mother. The petitioner further contends that she was residing with the minor child till May 2025 at both the Van Gogh residence and Golfshire villa, and that she was forcibly evicted from the Van Gogh residence pursuant to notices dated 05.05.2025 and 07.05.2025 issued at the instance of respondent No.2's husband. The respondents threatened to restrain her from entering the Golfshire villa, thereby alienating her from the minor child with intent to gain control over the estate of the deceased.

18. It is further contended that the guardianship proceedings instituted by the respondents are a counterblast to the succession proceedings in P&SC No.3/2025 and the partition suit in O.S.No.68/2025, and are intended to control and usurp the share of the minor child in the estate of the deceased, rather than being in the welfare of the child. The petitioner challenges the reliance placed by the Family Court on the interview of the minor child conducted on 29.11.2025, contending that the child had been separated from the

petitioner for over seven months since May 2025 and was under the exclusive custody and influence of the respondents, giving rise to a strong possibility of tutoring and undue influence. It is further contended that the child, having lost her father and being separated from her mother, could have undergone emotional distress, which was not considered. It is also contended that the interview was conducted in the absence of parties and their counsel.

19. It is further contended that the Family Court has erred in denying visitation rights to the petitioner till the completion of the child's examinations in June 2026 without any pleadings or material, thereby facilitating continued alienation of the child from the mother and rendering pending applications infructuous. The impugned order is contrary to settled judicial precedents of the Apex Court and this Court, which consistently hold that custody of a minor child ordinarily rests with the parent, particularly the mother, unless compelling circumstances exist.

20. In support of his contentions learned Senior counsel appearing for the petitioner has placed reliance on the following judgments:-

- **Vivek Singh v. Romani Singh** reported in **AIR 2017 SC 929**;
- **G Prabhudev and others v. Ranganayaki and others** reported in **ILR 2025 2779**;

31. From the legal position noticed above, the principles governing the custody of the children can be summarised as under:

(i) Custody of the child is distinct from guardianship;

(ii) The paramount consideration to determine the custody of the child is the welfare of the child and not the rights of the litigating parties;

(iii) Better financial resources and/or the love for the child may be one of the relevant considerations, but it cannot be the sole determining factor for the custody of the child;

(iv) "What is the wish/desire" of the child is different and distinct from "what would be in the best interest of the child". The wish/desire of the child can be ascertained through interaction. The question as to "what would be the best interest" is to be decided by the Court taking into account all the relevant circumstances;

(v) A heavy duty is cast on the Court to exercise its discretion judiciously in the background of all the relevant facts and circumstances bearing in mind the welfare of the child as the paramount consideration;

T. Tirumala Reddy and others v. APSEB Engineers Association, Hyd and others reported in **MANU/AP/0552/1998**

3. We are of the view that the preliminary objection raised by the learned Counsel for the respondent that the CMA is

not maintainable has to be upheld. The learned Counsel for the respondent has relied upon the Division Bench decision of this Court in S. Elisha v. World Missionary Evangelism of India and others MANU/AP/0886/1996: 1997 (4) ALD 604, wherein it was held that the order passed by the Principal District Judge in the original petition under Section 11 of the Act is not a decree within the meaning of Section 2(2) CPC and, therefore, it is not appealable either under Section 96 CPC. The learned Counsel for the appellant has rightly contended that the said decision has no application here. The learned senior Counsel for the appellant, while clarifying his stand that the impugned order passed by the Chief Judge, City Civil Court is not a decree, has, nevertheless, contended that it is an appealable order under Order XLIII Rule 1 CPC. It is the contention of the learned Counsel for the appellant that the application was filed under Order XXXIX Rules 1 and 2 CPC for injunction and the said application having been allowed, an appeal lies under Section 104 read with Order XLIII Rule 1 CPC. As rightly pointed out by the learned Counsel for the appellant, the decision relied upon by the respondent's Counsel has no direct application. At the same time, we are of the view that the impugned order is not appealable under Order XLIII Rule 1 CPC either. It is true that the application was purportedly filed under Order XXXIX Rules 1 and 2 CPC. But the said provision applicable to suits and appeals, cannot be projected into the provisions of the Act unless is an enabling provision which makes the provisions of the Civil Procedure Code applicable. It must be noted that the Principal District Court (in this case Chief Judge, City Civil Court) is exercising a jurisdiction conferred by a special Act and it is not the ordinary jurisdiction under the provisions of the Civil Procedure Code. The provisions of Civil Procedure Code including Order XXXIX Rule 1 cannot be made ipso facto applicable to the proceedings before the said Court under a special Act merely because the Court which has seisin of the matter is the Principal Civil Court of the district. This is not to say that the Act, though skeletal in nature, precludes

any application for interim relief including an injunction being sought by the aggrieved party if it relates to a matter concerning the management or dissolution of the society. It is well settled that the Court or a Tribunal which has Jurisdiction to try or enquire into a matter, has all incidental and ancillary powers so as to effectuate the substantive pose of powers conferred on the Court or Tribunal. The power to enquire into and dispose the application filed under Section 11 of the Act carries with it, in our view, the incidental or ancillary power to grant an interim order to prevent miscarriage of justice. Such power is; in our view, an adjunct to the power of adjudication conferred on the Court under Section 11 of the Act. That being the legal, position, we cannot view the interlocutory application filed by the respondent as an application under Order XXXIX Rule 1 CPC though a wrong provision was cited, In reality and in substance, it must be deemed to be an application filed under Section 11 of the Act itself and the Court is empowered to pass appropriate orders thereon in exercise of its incidental power as clarified above. When once it is held that the application is not traceable to Order XXXIX Rule 1 CPC and the order passed thereon is not really an order felling under Order XXXTX, Rule 1 CPC. Order XLIII Rule 1 CPC cannot be invoked for preferring an appeal We, therefore, uphold the preliminary objection and dismiss the Civil Miscellaneous Appeal as not maintainable.

- ***The High Court of Karnataka v. Union of India*** by division bench order dated **15.12.2025** passed in **W.P.No.24360/2023**; and
- ***Child Access and Custody Guidelines Along with Parenting Plan by The Hon'ble High Court of Calcutta.***

21. *Per contra*, the learned counsel for the respondents would contend that respondent No.1–grandmother possesses the requisite capacity and calibre to maintain and care for the minor child and has been providing a stable environment after the demise of the child’s father. It is submitted that the respondents have approached the Family Court seeking appointment as guardians in the interest of the welfare of the minor.

22. It is further contended that the injunction was sought only to ensure continuity and stability in the life of the minor child, particularly in view of her academic schedule. It is submitted that the child had her examinations in April 2026 and any disturbance at that stage would have been detrimental to her academic interests.

23. It is also submitted that the respondents are not opposed to the petitioner meeting the child and have expressed willingness to facilitate visitation rights after completion of the examinations in April 2026, and that the interim arrangement was only to safeguard the welfare of the minor child.

24. The learned counsel appearing for the respondents would contend that:-

- ***Mohd. Irshad and Another v. Nadeem*** reported in **2023 SCC Online Del 5394**.
- ***Sheila B Das v. P.R Sugasree*** reported in **(2006) 3 SCC 62**.
- ***Shazia Aman Khan and Another v. State of Orissa and Others*** reported in **(2024) 7 SCC 564**.
- ***Keshav R Thakur and Another v. Suchhibai*** reported in **(2005) 9 SCC 424**.
- ***Smt. Archana Pradhan v. State of Karnataka in W.H.C No.79 of 2023, The Hon'ble High Court of Karnataka***.
- ***Col. Ramneesh Pal Singh v. Sugandhi Aggarwal*** reported in **2024 SCC Online SC 847**.

25. Heard learned counsel appearing for the parties and perused the material on record.

26. Having considered the rival contentions and upon perusal of the material placed on record, it is evident that the impugned order is one of temporary injunction arising out of an application filed under Order XXXIX Rules 1 and 2 of the CPC. Though the proceedings arise under the Guardian and Wards Act, 1890 and are not strictly governed by the CPC wherein principles underlying Order XXXIX Rules 1 and 2, namely existence of a *prima facie* case, balance of convenience and irreparable injury, are required to be satisfied. These

requirements are not diluted merely because the proceedings arise under a special statute.

27. The petitioner is the natural mother of the minor child. The present dispute is not between two natural guardians, but between the mother on the one hand and the grandmother and aunt on the other. This distinction is of significance and must inform the approach of the Court while considering interlocutory relief. An order of injunction at the interlocutory stage cannot be passed in a manner that completely excludes a natural parent from access to the child. Such exclusion can be justified only where the material on record discloses *prima facie* unfitness of the parent or a real and imminent risk to the welfare of the minor.

28. The petitioner, being the mother, is the natural guardian within the meaning of Section 6 of the Hindu Minority and Guardianship Act, 1956, while remaining subject to the paramount consideration of welfare of the minor. Though the impugned order does not expressly displace such status, its effect is to substantially curtail the petitioner's ability to exercise the incidents of natural guardianship. By continuing an order of injunction which restrains the petitioner from access to

the minor child for a prolonged period, the Family Court has, in substance, diluted the statutory recognition accorded under Section 6 of the Hindu Minority and Guardianship Act, 1956 at the interlocutory stage. In a situation where the dispute is not between two natural guardians, any order resulting in complete exclusion of the mother must be supported by compelling circumstances demonstrable from the record.

29. No such exceptional circumstance is discernible in the present case. The material placed on record does not indicate any *prima facie* unfitness on the part of the petitioner nor any imminent risk to the welfare of the minor child so as to justify total denial of access. The contention of the respondents that continuity and stability in the child's routine, particularly in view of academic examinations, necessitated such restraint cannot be accepted to the extent of supporting a blanket denial of access. At the highest, such considerations may warrant regulation of interaction, but not complete exclusion. The submission that visitation may be deferred until completion of examinations effectively results in denial of access for a substantial period and cannot justify continuance of the present restraint. The care giving role of respondent No.1 is a relevant factor but cannot, at this stage, justify total exclusion of the

natural parent. In such circumstances, the requirements of *prima facie* case, balance of convenience and irreparable injury, as governing grant of injunction, are not satisfied.

30. It is also to be noted that though the Family Court has interacted with the minor child, such interaction, at the interlocutory stage, is only one of the relevant factors and cannot be treated as determinative, particularly when the child has been in the exclusive custody of respondents herein for a considerable period. The possibility of influence, coupled with the emotional circumstances arising from the loss of a parent, necessitates a cautious approach in placing reliance on such interaction at this stage. While such interaction is a relevant factor, it cannot override other material considerations at the interlocutory stage.

31. The Apex Court in ***Vivek Singh v. Romani Singh*** has emphasised that arrangements which result in exclusion of a parent, particularly the mother, from the life of a growing child are detrimental to the child's welfare and may give rise to parental alienation. Though the said principle was laid down in the context of final custody determination, it equally informs interim arrangements. An interlocutory order resulting in

complete denial of maternal access must therefore be viewed with circumspection, as it carries the potential of causing irreversible emotional consequences.

32. Further, the Co-ordinate bench of this Court in **G. Prabhudev v. Ranganayaki** has reiterated that the welfare of the child is to be assessed in a holistic manner, balancing emotional, psychological and developmental needs. An arrangement which, at the interlocutory stage, places the child exclusively within the domain of one set of relatives to the complete exclusion of the natural parent is prima facie inconsistent with such holistic assessment.

33. It is no doubt true that the Family Court possesses incidental and ancillary powers to grant interim reliefs in proceedings under the Guardian and Wards Act, as recognised in **T. Tirumala Reddy v. APSEB Engineers Association**. However, the exercise of such power must remain within the limits of interlocutory jurisdiction. It cannot be employed to create a situation which virtually determines custody or excludes a natural guardian in the absence of compelling justification.

34. In the considered view of this Court, the impugned order, insofar as it continues a restraint resulting in complete denial of access to the petitioner-mother, cannot be sustained and is liable to be set aside. The nature of the impugned restraint being absolute, it is not amenable to modification and is liable to be set aside. It is clarified that setting aside the injunction does not, by itself, determine custody but only vacate the restraint on access.

35. At the outset, it is required to be noticed that the impugned order arises out of proceedings under the Guardian and Wards Act, 1890, wherein the Family Court exercises a special jurisdiction. Though the impugned order pertains to grant of an interim injunction, the nature of the proceedings and the source of power are not strictly traceable to the provisions of the CPC. In such circumstances, and particularly where the interlocutory order results in serious civil consequences affecting the rights of a natural guardian, this Court is satisfied that the present writ petitions are maintainable in exercise of supervisory jurisdiction, especially when the challenge is to the legality and propriety of the order and not to re-appreciation of disputed facts.

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

ORDER

*(i) The writ petitions are **allowed**.*

(ii) The impugned common order dated 12.01.2026 passed in G & W.C.No.15010/2025, insofar as it allows I.A.No.III and rejects I.A.No.V, is hereby set aside.

(iii) The order of injunction restraining the petitioner–mother from access to the minor child stands vacated.

(iv) It is clarified that this Court has examined the matter only to the extent of the legality of the injunction.

(v) The questions relating to custody, visitation and appointment of guardian shall be decided by the Family Court after full-fledged trial, in accordance with law and uninfluenced by any observations made herein.

(vi) All contentions are kept open.

Ordered accordingly.

Pending IA's if any, shall stand disposed of.

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

BNV