



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: November 17, 2023

+ MAT.APP.(F.C.) 341/2023 & CM Appls. 59383/2023, 59384/2023
and 59385/2023

(41) PARAMEETA SINGH Appellant
Through: Mr. Vijay Anand Rahi and
Mr. Ayodhya Prasad, Advs.

versus

HARSH VARDHAN SINGH Respondent
Through: Mr. Ashok K. Singh, Ms. Ankita
Baloni and Mr. Deepak Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 59385/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM APPL. 59384/2023

This application is filed by the appellant seeking condonation of delay of 16 days in filing the present appeal.

For the reasons stated in the application, the same is allowed.

Application stands disposed of.

MAT.APP.(F.C.) 341/2023

1. The challenge in this appeal is to an order dated September 13, 2023, whereby the learned Family Court while considering the



application filed by the respondent herein under Section 12 of the Guardianship and Wards Act, 1890, has directed as under:-

“Ld. Counsel for the respondent states that the respondent is residing at Arunachal Pradesh and she has no objection if the petitioner comes to Arunachal Pradesh to meet the minor child. Ld. Counsel for the respondent further states that the petitioner works in Dubai, therefore, he can not take care of the minor child. Ld. Counsel for the respondent further states that the present petition is filed just to harass the respondent. In rebuttal learned counsel for the petitioner states that the respondent is residing in disturb area of Arunachal Pradesh, therefore, the petitioner can not go to there as he has risk of his life and the respondent is residing there as it is her native place but she has been residing in Delhi for last 20 years. Ld. Counsel for the petitioner further states that respondent has shifted to Arunachal Pradesh as she knows that the petitioner can not visit Arunachal Pradesh.

The minor child is about three years old and at this tender age he needs love and affection of both the parents. It is well settled law that while considering the custody/interim custody of the minor child the welfare of the minor child is paramount. In the case in hand it will be in the welfare of the minor child if visitation rights are granted to the petitioner being father of the minor child. Hence, in the interest of justice, the respondent is directed to bring the minor child to Children Room, Family Courts, Saket, New Delhi on every 3rd Saturday of every month at 02 PM so that the petitioner/father can meet the minor child on 3rd Saturday of every Month from 02:00 PM to 04:00 PM under the supervision of the respondent/mother till further orders. The respondent is further directed to allow the petitioner to have video call with the minor child on every Sunday from 04:00 to 05:00 PM. If the respondent due to some unavoidable circumstances is unable to bring the child for visitation on 3rd Saturday of the month or the 3rd Saturday happens to be holiday then she would inform in advance to the petitioner through Whatsapp message/e-mail and the



visitation shall take place in a such situation on 4th Saturday of the same month. If the petitioner due to some unavoidable circumstances is unable to come to Family Courts, Saket, Delhi on 3rd Saturday for visitation to meet the minor child then he would inform in advance to the respondent through Whatsapp message/e-mail and he will lose his visitation rights for the said month. The petitioner is directed to give the air ticket fare of both the respondents and minor child for every visitation day in addition to Rs.5,000/-. The parties are directed to behave with maturity and see that the order of the Court is strictly complied with. The application U/s 12 of Guardian and Wards Act is disposed of accordingly. So far as the application of the respondent U/s 151 CPC for permanent exemption, from physical appearance is concerned the respondent can appear through VC however, her main counsel should be present in the court and the matter should not be delayed due to the absence of the respondent. The application U/s 151 CPC for permanent exemption of the respondent is disposed of accordingly.”

2. The submission of learned counsel for the appellant primarily is that the child is only 3 ½ years of age and the appellant has been directed to travel along with her child from Bomdila, Arunachal Pradesh to Delhi, i.e., a distance of 2107 kms. and as such would entail three hours journey of car from Bomdila to Tezpur and nine hours of minimum journey of flight from Tezpur to Guwahati and then from Guwahati to Delhi and as such, it would be taxing on the minor child to travel such a distance. He submits that the respondent can very well travel to Bomdila, to meet the child and to this extent the impugned order requires to be modified.

3. On the other hand, learned counsel for the respondent would contest the appeal by stating that the order of the Family Court is



justified as the Family court has granted visitation rights only for a period of two hours i.e., from 02:00 PM to 04:00 PM, that too in the Children Room, Family Courts, Saket, New Delhi, on third Saturday of every month. He further submits that in case the order of the Family Court is not modified then even the parents of the respondent, would also get the opportunity to enjoy the company of the child, as they also stay in Delhi. He also submits that the sister of the appellant, who is a married woman, stays in Gurugram and to that extent, no hardship would be caused to the appellant, as she can very well stay at her sister's residence rather than going back to the Bomdila, immediately. It is also his submission that the plea of the appellant, that the fact that she has to travel from Bomdila, Arunachal Pradesh to Delhi along with the child would be taxing on the minor child, is not tenable, inasmuch as, the appellant is also a permanent resident of Tezpur and as such, she can very well come to Tezpur and stay there in advance, i.e., before taking a flight from Tezpur to Guwahati and then from Guwahati to Delhi.

4. Noting the fact that the visitation is only on third Saturday of every month and that too for two hours, and as we have been informed that father of the respondent is suffering from cancer and undergoing Chemotherapy and as such, the grandparents of the child would also get to enjoy the company of the child, reasonable would be that the order of the Family Court is not interfered with.

5. In fact, as the sister of the appellant is residing in Gurugram, which is near to Delhi, the appellant can very well reach Delhi, much before the date of visitation i.e., third Saturday of every month and stay



at her sister's residence, in order to place the child in his comfort zone, before he gets to meet the respondent, on the date fixed by the Family Court.

6. In the peculiar facts of this case, as noted above, we are of the view, that the reasoning given by the Family Court, as reproduced above, is justified and as such requires no interference.

7. The appeal is dismissed. No cost.

CM APPL. 59383/2023

8. In view of the above, dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

NOVEMBER 17, 2023/ds