

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

+ **CS(OS) 3946/2014 & IA No.25753/2014**

Decided on: 08.01.2015

IN THE MATTER OF

SHYAM GUPTA AND ANR.

..... Plaintiffs

Through Ms.Geeta Luthra, Sr.Advocate with
Ms.Deepti Dwivedi, Advocate with plaintiffs
and Dr.Vikas Gupta in person

versus

RAJNI GUPTA

..... Defendant

Through Mr.Rakesh Mukhija, Advocate with
defendant in person

**CORAM
HON'BLE MS.JUSTICE HIMA KOHLI**

HIMA KOHLI, J. (ORAL)

1. On the last date of hearing, i.e., on 5.1.2015, it was noted that having regard to the nature of relief prayed for by the plaintiffs and taking into consideration the fact that the dispute is between the parents-in-law and the daughter-in-law, their presence was required for today. However, it appears that due to a typing error, the next date of hearing was noted in the order sheet as 5.2.2015. As all the parties were directed to remain present today, counsels for both the sides had mentioned the matter at 10.30AM and informed the court that though the parties are present, but the case

has not been reflected in today's cause list. Accordingly, the file has been summoned from the Registry and before taking up the matter, it has been duly circulated in the supplementary cause list.

2. The defendant who is present in court and represented through counsel, denies the allegations levelled by the plaintiffs against her and states that ever since she had left their residence in the year 2011, she has not visited the same, much less threatened the plaintiffs either on the telephone or by any other means. She submits that when she had last visited the residence of the plaintiffs sometime in the year 2012, it was only to ask after the health of her husband, Dr. Vikas Gupta, who had undergone a surgery and the telephonic calls that she had made were to speak to her minor son who is residing with her husband and the in-laws. She states that her son has been spending weekends between Fridays and Sundays and some school holidays with her on several occasions.

3. Learned counsel for the plaintiffs denies the aforesaid submissions and informs the Court that Dr. Vikas Gupta, the defendant's husband has already filed an application under Section 12 of the Guardians and Wards Act, registered as G.S. No.158/2014 and summons were issued in the said suit on 29.11.2014, returnable on 24.1.2015. She submits that an interim order has

been granted by the Guardianship Court to the effect that the defendant herein will not interfere in the custody of the minor son, till further orders.

4. Learned counsel for the defendant states that his client shall take appropriate steps to enter appearance in the aforesaid proceedings and contest the said suit as also seek vacation of the interim orders. He, however, assures the court that the defendant had never visited the residence of her in-laws after leaving the same in the year 2011 and nor does she intend to so in the near future, except in accordance with law.

5. As for the second relief prayed for in the suit which is for issuance of directions to the defendant not to make calls on the phone installed by the plaintiffs at their residence, learned counsel for the defendant states that this is the only mode of communication between the defendant and her minor son and if the plaintiffs or Dr.Vikas Gupta are willing to provide a mobile number so that the defendant can speak directly to him till appropriate orders are passed by the Guardianship Court, she would not call up on the landline installed at the residence of the plaintiffs.

6. Learned counsel for the plaintiffs states that a mobile number shall be furnished to the counsel for the defendant in the course of

the day and the defendant shall be at liberty to speak to her son on the said number between 4 to 5PM on Saturdays and on Sundays, till appropriate directions are issued by the Guardianship Court in the pending proceedings. The said suggestion is acceptable to the other side as an interim measure.

7. While binding the parties to the aforesaid statements, with their consent, the present suit is disposed of along with pending application, while leaving them to bear their own costs. It may be clarified here that this Court has refrained from making any observations on the merits of the case and the parties shall be at liberty to take all the pleas on facts and in law before the Guardianship Court.

8. The date already fixed stands cancelled.

JANUARY 08, 2015
mk/rkb

(HIMA KOHLI)
JUDGE