

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 3824 of 2018 (O/M)
Date of decision : 31.5.2018

Parul Mahajan

..... Petitioner

Versus

Amit Katoch

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Petitioner in person with
Mr. Vikas Bahl, Senior Advocate, with,
Ms. Balpreet Sidhu, Advocate.

Caveator-respondent in person with
Mr. Amit Jhanji, Advocate.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
- .- -.-

KULDIP SINGH J. (ORAL)

Impugned in present revision is order dated 22.5.2018 (Annexure-P-6), passed by learned Principal District Judge, Family Court, Gurugram, vide which while disposing of an application for interim custody of minor child Aryaman Katoch, following directions were given :-

- 'A. During working days, the applicant-father will have custody of minor child for the alternate weekends. He will collect the minor child at 5:00 PM on first and third Fridays from the residence of the respondent-mother and will drop him back at 6:00 PM on Sunday.
- B. During long holidays and vacations, the applicant-father will have the custody of the minor child for one week in long vacation and 50% days in short vacations.

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- C. During all the holidays during working days (excluding Saturday and Sunday) which are less than three in number, the minor child will remain with the respondent-mother, but if more than three days, it shall be shared equally by the parties.
- D. None of the parent shall take the minor child out of station without informing the other parent of the entire programme and the itinerary of the out station vacations.
- E. The parties shall not take the minor child outside India without informing and taking the permission of the Court.
- F. None of the parent shall prevent the minor child from interacting with the other parent over phone, whatsapp etc.
- G. The applicant-father shall not expose the minor child to any stranger who is not in blood relationship and shall not introduce him to any person as mother or sister. If he flouts this condition, he will forfeit his visitation right.'

Mr. Amit Jhanji, Advocate, has appeared for caveator-respondent. The learned senior counsel for petitioner and learned counsel for caveator-respondent have been heard. Both parties are also present in person before this Court.

The main thrust of arguments of learned senior counsel for petitioner is regarding arrangement of night stay of minor child with father. It is contended that as per arrangement, minor child will stay for two nights with father in the alternate week and also stay for night during vacations. It is further contended that condition in point 'B' is vague as long holidays and vacations have not been defined, nor short vacations have been defined. It is pointed out here that a divorce has already taken place between parties and

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both parties are living separately.

Perusal of impugned order shows that before passing order, learned Principal District Judge, Family Court, Gurugram, interacted with minor child in her chamber and made certain observations regarding same, which shows that learned Principal District Judge, Family Court, Gurugram, took into consideration the wishes of minor child and his welfare, which is paramount consideration in such cases.

Only apprehension of petitioner is regarding condition of night stay, during which the minor child will stay with father. At this juncture, this Court would like to see for at least one month, the effect on child while staying with father and thereafter, if it is found that two nights stay or longer duration is not in the interest of minor child, learned Principal District Judge, Family Court, Gurugram, can always review said arrangement.

In these circumstances, revision is disposed of with following direction :-

The learned Principal District Judge, Family Court, Gurugram, shall define what are long holidays and what are short vacations ?

After four weeks from now i.e. immediately on 2.7.2018, learned Principal District Judge, Family Court, Gurugram, shall fix the case and after interacting with minor child in her chamber in the absence of both parties and after consulting both parties, shall decide whether system of night stay of minor child with father is working well or it requires any change and if so, what changes are required and accordingly, pass necessary orders. Further, for the purpose of holidays starting from 1.6.2018 to 1.7.2018, it is clarified that as agreed today by both parties before this Court,

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respondent-father will take interim custody of minor child on 11.6.2018 at 12 Noon and minor child will stay with father upto 18.6.2018 till 12 Noon. During this period, petitioner-mother shall be allowed to talk to minor child on telephone/mobile phone. Disposed of accordingly. Since main case has been disposed of, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

31.5.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No