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

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Decided on: 23.05.2018

+ MAT.APP.(F.C.) 128/2018 and CM APPL. 21987/2018 (exemption)

R.G.

..... Appellant

Through: Appellant in person.

versus

P.G.

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

SIDDHARTH MRIDUL, J. (ORAL)

1. The present matrimonial appeal assails an order dated 19.05.2018 passed by the learned Judge, Family Courts (West), Delhi, in G.P. No.12/17/14, titled as "**R.G. vs. P.G.**", whereby the respondent-wife's application seeking temporary custody of the minor child of the parties during the summer vacation has been allowed.

2. The appellant-husband, who appears in person, has invited our attention to an order dated 30.10.2015, rendered by a learned Single Judge of this Court, whereby interim custody of the minor child has been granted to him, whilst granting respondent-wife visitation rights over the weekends. Predicated on the said order dated 30.10.2015, the

appellant-husband would urge that the application instituted on behalf of the respondent-wife was not maintainable.

3. Having perused the said order dated 30.10.2015, as well as, the report of the psychologist appointed by this Court, what clearly emerges is the exposition of the unhealthy effects on the minor child, on account of being subjected to the stress of his separated and warring parents. Nowhere in the said order do we find any reference to the respondent-wife being unable or unfit to look after the minor child, nor do we find any direction which may be construed as having placed an embargo on her from seeking temporary custody of the minor child during the summer vacation.

4. A perusal of the directions contained in the impugned order reflect that, the appellant has been directed to handover the custody of the minor child to the respondent-wife from 19.05.2018 to 27.05.2018 and 14.06.2018 to 24.06.2018. It has, however, been ordered, in order to balance the paramount interest of the child, as well as, the rights of the parents, that in the remaining weekends during the month of June, 2018, the respondent-wife will not have weekend visitation rights and the child would remain exclusively with the appellant-husband.

5. Mr Goyal, the appellant, who appears in person, informs us that the child has been in the temporary custody of the respondent-wife since 19.05.2018. He would, however, urge that although the minor child may be permitted to remain with the respondent-wife till 27.05.2018, as directed in the impugned order, she may not be granted custody for the remainder of the period of visitation between 14.06.2018 to 24.06.2018.

6. In this behalf, we observe that the learned Family Judge found that the minor child, who was present in Court when the impugned order was rendered, appeared to be at complete ease and was smiling while standing with the respondent-mother and further appears to be equally comfortable with both parents. Significantly, the minor child expressed his desire and appreciation for both parents equally. The learned Family Judge further found that there was no material on record or reason to presume that the interim/temporary custody of the minor child with the respondent-wife would, in any manner, be detrimental to his overall well being.

7. Having considered all the relevant factors, including the circumstance that the minor child has summer vacation of about 40 days during the months of May and June, 2018; and in view of the dictum that the interests of justice would be served if both the parents were allowed custody, 50% each, during the said period, the learned Family Judge rendered the order impugned in the present appeal.

8. Having heard the appellant in person and perused the entire record, we find no reason to interfere with the judicial discretion exercised by the learned Family Court, in granting temporary custody of the minor child to the respondent-wife . It is also pertinent to observe that the balance of interests of both the parents is maintained, by granting the interim custody of the minor child to the respondent-wife during the summer vacation; whilst denying the weekend visitation rights to the latter during the remaining weekends in the month of June, 2018. More significantly, it is in the paramount interest of the overall

growth of the minor child to receive the natural love and affection of both parents equally.

9. In view of the foregoing, the present appeal is devoid of any merit and the same is dismissed.

10. Pending applications also stand disposed off.

**SIDDHARTH MRIDUL
(JUDGE)**

**DEEPA SHARMA
(JUDGE)**

MAY 23, 2018

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