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

+ CM(M) 964/2016 & CM No.35422/2016 (for stay).

SUNIL KUMAR

..... Petitioner

Through: Mr. Ashwani Sharma and Mr. Vishal  
Sharma, Advs.

versus

RAKESH KUMAR

..... Respondent

Through: Mr. Bhupender Panchal son of the  
respondent.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**24.09.2018**

1. This petition under Article 227 of the Constitution of India was filed impugning the order [dated 9<sup>th</sup> June, 2016 in GP No.01/2016 of the Principal Judge, Family Courts (North-West)] on an application under Section 12 of the Guardians & Wards Act, 1890 filed by the respondent and granting interim custody of the minor to the respondent who is the maternal grand parent of the minor.
2. This petition came up first before this Court on 26<sup>th</sup> September, 2016 when notice thereof was ordered to be issued and *status quo* ordered to be maintained.
3. Vide subsequent orders, after hearing the parties, their counsels and also interacting with the minor, on 22<sup>nd</sup> November, 2017 an interim arrangement was made out. Vide subsequent orders dated 24<sup>th</sup> January, 2018 and 21<sup>st</sup> May, 2018, other directions were issued.
4. On 14<sup>th</sup> September, 2018, when this petition was listed last, the counsel for the respondent did not appear and the son of the respondent

sought an adjournment stating that the counsel was unwell. Accordingly, this matter was posted for today.

5. Today also, the counsel for the respondent has not appeared and Mr. Bhupender Panchal son of the respondent states that the matter be passed over.

6. The counsel for the petitioner states that he will not be available on Passover.

7. The counsel for the petitioner however states that the interim arrangement worked out by this Court in the orders aforesaid is working smoothly and the petitioner is satisfied therewith. It is further stated that the Hon'ble Judge who had worked out the interim arrangement was also intending to have the matter settled finally but whereafter no indication has been received from the respondent.

8. Vide order dated 24<sup>th</sup> July, 2017, record of Family Court was requisitioned. Resultantly, without stay of proceedings before Family Court, proceedings therein are stalled.

9. It is felt that this Court should not keep this petition pending. Attempts, if any required to be made for settlement of the entire dispute, can be made before the Family Court.

10. This petition is thus disposed of by directing that the interim arrangement worked out by this Court to continue, in supersession of the impugned order dated 9<sup>th</sup> June, 2016, till the pendency of the proceedings before the Family Court or till either of the parties files any application before the Family Court. If any further directions are required with respect to the arrangement worked out by this Court, application in that regard be

also filed, instead of before this Court, before the Family Court who may proceed to deal with the same as per exigency of the then prevailing facts. It will also be open to the parties to make endeavours before the Family Court for settlement of the proceedings before the Family Court itself.

11. The petition is disposed of.

12. The record of the Guardianship Court requisitioned in this Court be sent back forthwith.

13. If there is no date before the Family Court in the said proceedings, the parties to appear before the Family Court on 5<sup>th</sup> December, 2018; else the date given by the Family Court shall prevail.

*Dasti.*

**RAJIV SAHAI ENDLAW, J**

**SEPTEMBER 24, 2018**

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