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

+ CM(M) 1362/2017

CAPTAIN KAMAL KUNDAN GROVER Petitioner

Through: Mr. Sanjay Jain and Mr. Sunil
Satyarthi, Advs.

versus

SHAILA KAMAL GROVER Respondent

Through: Mr. Jaskaran Singh, Mr. Kunal Nath
and Mr. Anil Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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31.07.2018

1. This petition under Article 227 of the Constitution of India impugns the order dated 24th October, 2017 in G-04/17 of the Court of the Principal Judge Family Court (South-East), Saket, New Delhi.
2. Various interim orders have been made in this petition from time to time.
3. The counsel for the petitioner today also, instead of arguing the petition qua the order under challenge, has drawn attention to the orders dated 12th April, 2018 and 29th May, 2018 in this petition.
4. Finding the impugned order to be with the consent of the parties, I have enquired from the counsel for the petitioner, the challenge thereto.
5. The counsel for the petitioner states that the consent of the petitioner thereto was forced.
6. I have enquired from the counsel for the petitioner, whether not the remedy therefor is to apply to the Family Court.

7. The counsel for the petitioner states that the Principle Judge Family Court (South-East) superannuated in December, 2017 and since then there is a vacancy in the Court of Principal Judge Family Court (South-East), Saket Courts and thus the need to prefer this petition.
8. On enquiry, whether there is no other Family Court in South-East District, it is stated that Ms. Madhu Jain is the Judge, Family Court (South-East).
9. Instead of appropriating jurisdiction of the Family Court, while exercising this jurisdiction under Article 227 of the Constitution of India, it is deemed appropriate to transfer G-04/17 titled ***Captain Kamal Kundan Grover Vs. Shaila Kamal Grover*** from the Court of Principal Judge, Family Court (South-East) to the Court of Judge, Family Courts (South-East). It will be open to the petitioner to take appropriate proceedings before the Family Court.
10. With the aforesaid, the challenge insofar as made in this petition, does not survive.
11. The counsel for the petitioner however states that the order dated 12th April, 2018 has not been complied with by the respondent.
12. On enquiry it is stated that the Delhi High Court Mediation and Conciliation Centre has appointed a counsellor in compliance of the order but the respondent produced the child only on 2nd May, 2018 and 8th May, 2018 and did not produce the child or appear herself on 28th May, 2018 and 31st May, 2018.

13. The counsel for the respondent on enquiry states that the father of the respondent is not keeping well and the respondent could not attend the hearings before the counsellor along with the child for the said reason.

14. The illness if any of the father of the respondent is no ground for the respondent to deprive the petitioner as father of his child of the benefit of meeting his child.

15. The counsel for the respondent states that the respondent, in future shall not take such a plea and shall diligently comply with each and every direction and shall produce the child on whatever day is directed.

16. However, since the petition before this Court is being disposed of, it is deemed appropriate to direct that the further orders qua visitation and counselling be made by the Judge, Family Courts seized of the matter.

17. The petition is disposed of.

18. The counsel for the petitioner at this stage states that the next date before the Family Court is in November, 2018.

19. The parties to appear before the Court of Ms. Madhu Jain, Judge, Family Court (South-East) on 10th August, 2018.

20. The amount deposited by the petitioner in this Court towards maintenance, together with interest accrued thereon be released in favour of the respondent.

RAJIV SAHAI ENDLAW, J

JULY 31, 2018

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