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

+ MAT.APP.(F.C.) 55/2018, C.M.Nos.48828/2018 & 50496/2018

HARLEEN KAUR Appellant

Through: Ms.Kaadambari Puri, Advocate with the
appellant in person.

versus

RAMNIK SINGH Respondent

Through: Mr.Samit Khosla, Advocate with
respondent in person.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **05.12.2018**

1. Challenge in this appeal is to the order dated 21.08.2017 passed by the Family Court on an application filed by the appellant-wife under Section 12 of the Guardians and Wards Act seeking extension of visitation rights, which were granted by the predecessor of the Court vide order dated 04.07.2016. It was also submitted before the learned Family Court and as noticed in para 2.1 of the order that the children are being denied the love and affection of their mother since 2013. It was also brought to the notice of the Family Court that the learned Metropolitan Magistrate, Bangalore vide order dated 20.12.2013 had granted visitation rights under Section 25 of the Domestic Violence Act twice a month from 10 a.m. to 4 p.m. However, subsequently vide order dated 05.12.2014, the visitation was reduced to once a month.
2. The application filed by the appellant-mother has been rejected by the Family Court. The necessary facts to be noticed for disposal of this appeal are that the marriage of the parties was solemnised on 09.06.2003 and two children were born out of their wedlock, who are at present in the custody of the father. The parties have been residing separately since

2013. Serious allegations and counter allegations have been made against each other. Ms.Kaadambari Puri, counsel for the appellant-mother submits that the Family Court has failed to record a single reason as to why the appellant is being deprived of reasonable visitation rights. She submits that the visitation rights from 10.30 a.m. to 3 p.m. once a month would be highly insufficient. Mr.Samit Khosla, counsel for the respondent-husband submits that there is no infirmity in the impugned order passed by the Family court.

3. We have heard the counsels for the parties.
4. The application of the appellant herein has been rejected by the Family Court for the reasons as set out in paras 4 to 7 of the impugned order, which we reproduce below:

“4. I have heard the ld. counsels for both the parties and with their assistance perused the record.

5. On a specific query by the court; as to the reasons for which petitioner carried police officials with her for visitation, it was submitted that respondent was interfering in the visitation; therefore, she sought the assistance of police. On a further query by the court, petitioner was unable to point out if any order was passed by a court or a competent police officer providing her the assistance of police for visitation. This conduct of the petitioner, when read with two FIRs registered against the respondent and her family members at Gurgaon, during the visitation; leaves a clear impression that petitioner has used extraneous pressures on the respondent and has misused concession allowed to her by the court. Such conduct of the petitioner does not entitle her to any discretionary relief by the court. Moreover, bringing police officials during the visitation would not be conducive for healthy, mental and emotional growth of the children.

6. There can be no dispute about the law laid down in judgement relied upon by the petitioner. However, none of the judgements deals with application for interim custody. Principles laid down therein shall be applied to the facts as and when the evidence has been lead.

7. For the reasons as noticed above, I find no reason to grant extension of the visitation rights. Application u/sec.-12 of the Guardians & Wards Act is accordingly dismissed. Nothing said, herein, shall have bearing on the merits of the case.”

5. Reading of the aforesaid order would show that the Family Court has rejected the request of the appellant for additional visitation rights on account of her conduct regarding presence of police officials with her during visitation. In our view, this alone cannot be a reason to deprive the children of the love, care and affection of the mother. Without saying anything further, we are of the view that the impugned order dated 21.08.2017 is required to be set aside. We direct the Family Court to decide the application in accordance with law and on merits and not simply for the reason that during visitation she had sought police assistance. We may note that counsel for the appellant has assured us that at the time of visitation no police official would be present. We may hasten to add that we are not in any way depriving the appellant or the respondent of their legal rights. Till the application is decided, the appellant would be entitled to meet her children at least twice a month on the earlier terms and conditions i.e. on second and fourth Sunday of every month between 10 a.m. to 4 p.m. In addition, she would be entitled to interact with the children on skype, face time etc. We make it clear that we have not expressed any opinion on the merits of the matter.
6. The appeal and the pending applications being C.M.Nos.48828/2018 & 50496/2018 are disposed of in the above terms.

G.S.SISTANI, J

JYOTI SINGH, J

DECEMBER 05, 2018/rb/