

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO No.3974 of 2019
Date of Decision:26.06.2019**

Dr.Devender Sangwan

....appellant

Versus

Dr.Seema

.....respondent

**CORAM: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU
HON'BLE MR.JUSTICE ARUN MONGA**

Present: Mr.Deepak Thapar, Advocate
for the appellant.

Mr.Yash Dev Kaushik, Advocate
for the respondent.

HARINDER SINGH SIDHU, J. (ORAL):

The appellant and respondent are husband and wife. Both of them are Doctors.

The appellant has filed this appeal impugning the order dated 29.05.2019 of the Additional Principal Judge, Family Court Sonapat whereby his application for custody of the minor child namely Aditya during the summer vacations has been dismissed.

A petition under Section 6 of the Hindu Minority and Guardianship Act filed by the appellant for custody of Aditya was disposed of on 19.12.2016 on the basis of joint statement of the parties whereby they agreed that Aditya (then aged 12 years) would remain in the custody of his mother. Custody of the other son Devanshu (then aged 17 years) would remain with the father. However, the children would spend half of their

holidays with the other parent. Accordingly as per the settlement the minor

child Aditya was to spend half the holidays with the appellant. As despite the request of the appellant the respondent did not permit the minor child to spend any time with the appellant during the current summer vacations he filed the application which has been dismissed vide the impugned order.

The contention of the respondent which found favour with the Ld. Court below was that Aditya is attending tuition classes for 9th class during the summer vacations at Neev Foundation Coaching Center, Sonapat. If his custody is handed over to the appellant who is residing at Uklana Mandi, District Hissar it would interrupt his studies at a crucial stage which would not be in his interest. Ld. Counsel for the respondents has reiterated the same before us. He has further stated that the Coaching Centre conducts a weekly tests on Sundays. The holidays are finishing on 30.06.2019 (Sunday) and there is no way the custody can be handed over to the appellant without disturbing the studies of the child and it would not be in his interest.

We are not convinced with the argument of the Ld. Counsel for the respondent. The settlement between the parties in relation to custody of the children stipulates Aditya spending half of the holidays with the appellant. The mere fact that he is taking tuitions is no ground to not abide by the terms of the settlement. Moreover Aditya is presently a student of 9th class. The test that is scheduled for 30.06.2019 is only a weekly test conducted by a private coaching centre. We do not think that if the child misses his tuition classes for a few days that would so adversely impact his studies.

Accordingly, the appeal is allowed. The impugned order is set

to the appellant on 27.06.2019 at 04.00 PM either from his coaching centre i.e. Neev Foundation Coaching Centre or from the residence of the respondent. The appellant would hand over custody of Aditya to the respondent by 05.00 PM.on 30.06.2019

A copy of the order be given to learned counsel for the parties under signatures of Bench Secretary attached to this Court.

(HARINDER SINGH SIDHU)
JUDGE

(ARUN MONGA)
JUDGE

26.06. 2019
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