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

+ **MAT.APP.(F.C.) 130/2019**

MONA GUPTA

..... Appellant

Through: Mr.Rajat Aneja, Advocate, Ms.
Chandrika Gupta, Ms. Rajuala Gaur,
Advocates with appellant in person.

versus

PARAS VERMA

..... Respondent

Through: Ms. Trisha Gupta, Ms.D. Malaviya,
Advocates with respondent in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **14.11.2019**

1. The appellant/mother is aggrieved by a part of the order dated 04.04.2019, passed by the learned Family Court on an application filed by the respondent for seeking interim custody of the minor child of the parties, who is almost 15 years old and resides with the appellant.

2. Mr.Aneja, learned counsel for the appellant states that the visitation rights of the respondent in respect of the minor child are continuing in terms of the order dated 13.04.2017 passed by the High Court in Contempt Case (Civil) No. 877/2016 (Annexure P-9), which position is confirmed by learned counsel for the respondent, on instructions received from the respondent, who is also present in court. Learned counsel states that in para-15 of the impugned order, the statement of the minor child has been recorded to the effect that he would be willing to meet his father i.e. respondent herein only twice a month, till June 2019 and thereafter, he

would make up his own mind as to whether to continue meeting him or not, since he has been promoted to the 10th standard and will have to see what time can he spare to be with his father. It is stated by Mr.Aneja, learned counsel for the appellant that though the main petition is at the stage of recording of the evidence of the parties and was listed before the Family Court for the said purpose on 16th and 17th July 2019, evidence could not be recorded as the successor Family Court Judge wished to examine the child, for which purpose the next date is fixed as 30.11.2019.

3. The only grievance of the appellant relates to the observations made by the Family Court in para 16 of the impugned order wherein, it has been recorded that *“the child has been subjected to some tutoring, directly or indirectly or intentionally or otherwise, and it appears that the father has not been able to spend quality private time with the child in the earlier meetings.”* Learned counsel states that the aforesaid observations amount to pre-judging the entire case, when the evidence has yet to be led, more so, when the successor court has considered it appropriate to interact with the child once again. He further states that the appellant shall be filing an application before the Family Court for seeking modification of the visitation rights of the father, as the child is now in Class 10th and he has already expressed his desire for a reconsideration of the visitation rights.

4. We do not propose to make any observation on the merits/de-merits of any such application that the appellant proposes to file before the Family Court. It shall be for the Family Court to take a view in the matter after interacting with the child on 30.11.2019.

5. As regards the observations made in para 16 of the order dated 04.04.2019 are concerned, it is clarified that the said observations shall not be taken into consideration by the Family Court at the time of finally deciding the two petitions filed by the parties. We leave it to the Family Court to take an appropriate decision after interacting with the minor child.

6. The present appeal is disposed of on the above terms.

HIMA KOHLI, J

ASHA MENON, J

NOVEMBER 14, 2019

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