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

% *Date of Judgment: 04.02.2019*

+ **MAT.APP.(F.C.) 315/2018 & CM APPL. 50100/2018**

M P

..... Appellant

Through Mr.Mimansak Bhardwaj, Advocate
alognwith father of the appellant

versus

A M

..... Respondent

Through Mr. Paranjay Chopra, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

G.S. SISTANI, J. (ORAL)

1. The present appeal is directed against the order dated 22.11.2018 passed by the Family court on an application under Section 12 of Guardians and Wards Act, 1890 moved by father/respondent herein seeking interim custody of the minor child. The substantive petition under Section 7 and 25 of the Guardians and Wards Act is also pending and the same is being contested. The case set up by the respondent/father before the Family Court was that the custody of the child was removed forcibly from him on 16.04.2016 and child was brought to Delhi from Mumbai. It was highlighted that the child

remained happy in his care and custody and there is no reason for entertaining the present appeal.

2. Counsel for the appellant submits that child would not be comfortable with the father as the child has not been in contact with him for the past three years. He further submits that the respondent is a resident of Indore and has no permanent residence in Delhi and thus allowing the child to spend overnight with the father will not be in the interest of the child.
3. Counsel for the respondent has refuted the submissions and contends that the father is meeting his child regularly since 22.11.2018 and also prior thereto, in the court of the Principle Family Judge. He further submits that during the period of visitation, the respondent would stay with his married sister who is living with her father-in-law and husband. He further undertakes that during the said period the girl child would not be left alone and he would constantly remain with her. He further submits that child will be picked up from the gate of the colony where the mother resides, and the child would not be removed from Delhi or Noida.
4. Counsel for the appellant submits at this stage, that the time of 9:00 AM on Saturday be changed to 10:00 AM and 8:00 PM on Sunday also be modified and further the respondent be directed to give the address of his sister. We accordingly modify the time of 9:00 AM on Saturday to 10:00 AM and that of Sunday to 7:00 PM as suggested by the appellant.

5. The respondent has also disclosed the address of his sister, which is as under:-

B12003, Cleo County, Noida, Sector 125

6. During the period when the child is with father, child will be allowed to speak with the mother atleast three times a day, and both will be allowed to make whatsapp video calls to each other. The child will not be removed from Delhi and Noida.
7. We also leave it open for the parties to make any further adjustments for the purpose of visitation, for the benefit of the child. During the visitation, in case, the child is to attend any Birthday Party, the father will take the child to the Birthday Party, as agreed by both the parties.
8. Both the parties to comply with the order in letter and spirit.
9. With the agreed directions, appeal is disposed of.

G.S.SISTANI, J

JYOTI SINGH, J

FEBRUARY 04, 2019

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