

HIGH COURT OF CHHATTISGARH, BILASPUR

FA (MAT) No. 46 of 2019

Shama Parveen W/o. Bilal Khan, Aged 33 years, Caste Muslim, R/o. Ward No. 19, Tina Dafai, Haldibadi, P.S. Chirmiri, Tehsil Chirmiri, District Koriya, (C.G.) At present Railway Colony, Ward No. 01, Near Masjid, Manendragarh, District Koriya (C.G.) ---- **Appellant**

Versus

Bilal Khan S/o. Aziz Khan, Aged about 34 years, Caste Muslim, R/o. Ward No. 24, Kapoor Singh Dafai, Chhota Bazar, Chirmiri, P.S. and Tahsil Chirmiri, District Koriya (C.G.) ---- **Respondent**

For the appellant :- Mr. Pawan Shrivastava and
Mr. Pushkar Sinha, Advocates
For the Respondent :- Mr. Surendra Dewangan, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board By
Manindra Mohan Shrivastava, J.

10.02.2020

1. Heard on I.A. No. 01, application for condonation of delay in filing the appeal.
2. Upon due consideration, the appeal barred by 111 days and the cause shown, we are inclined to condone the delay. Accordingly, the application is allowed and the delay is condoned.
3. With the consent of learned counsel for the parties, the appeal heard finally.

4. This appeal arise out of order dated 17.05.2019 by which the learned family Court has granted Visitation Rights to the husband/ respondent in the manner that the respondent would be entitled to meet his children in a park at Chirmiri every sunday between 4 to 6 PM.

The grievance of the appellant/ mother is only with regard to place of meeting and not against the order of Visitation Rights as such.

5. Learned Counsel for the appellant submits that it would be extremely inconvenient and difficult for the mother to take the children for a travel every week to another station. It is submitted that the respondent may be granted Visitation Rights to visit the child at Manendragarh where the mother is residing with two children.
6. Learned counsel for the respondent opposes the prayer and submits that the distance between Manendragarh and Chirmiri is hardly 44 KM and if the respondent/ husband is required to visit Manendragarh every weekend, it will cause him serious inconvenience.
7. The parties admit that they are residing separately. Mother is residing at Manendragarh whereas father/respondent residing at Chirmiri. Learned counsel for the parties jointly submit that the distance between the Manendragarh and Chirmiri is about 45 KM.

8. Directing wife to take two children to Chirmiri every weekend would not only cause serious inconvenience to the appellant and also financial burden but also disturb the children who will be required to undertake journey, though to a nearer station. That would be against the interest of the children and that may effect their studies and they will be unnecessarily required to undertake journey every weekend. Keeping in forefront the welfare of the children and giving it precedence over the inconvenience caused to the parties, we are of the view, that the visitation rights to the respondent should be in such a manner that two children are not required to undertake frequent journey. This is possible only when the respondent is allowed to enjoy his visitation rights by visiting children at Manendragarh only.
9. Accordingly, we modify the order dated 17.05.2019 only to the extent that the respondent/ father is entitled to meet his two children at Manendragarh at the residence of the appellant between 4 to 6 every Sunday. This arrangement would also be applicable for Visitation Rights that may be enjoyed by the respondent/ father during Eid festival.
10. Appeal is accordingly allowed in the manner to the extent indicated above. It will be the obligation of the appellant to allow the respondent/ husband to meet children at her residence by providing suitable space in the residence.

Sd/-

Manindra Mohan Shrivastava
Judge

Sd/-

Vimla Singh Kapoor
Judge