

\$~4

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

+ MAT.APP.(F.C.) 91/2020 & CM APPL. 14148/2020

A Appellant
Through: Mr.Jaideep Malik, Advocate

versus

S Respondent
Through: Ms.Sundershani Ray and Ms.Shrutika
Shridhar, Advocates for respondent
with respondent in person

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA
HON'BLE MR. JUSTICE BRIJESH SETHI

% **ORDER**
07.07.2020

1. The hearing has been conducted through video conference.
2. The appellant has challenged the order dated 27th June, 2020 whereby the interim custody of her two children had been given to the respondent for 6 days from 30th June, 2020 to 06th July, 2020.
3. Learned counsel for the respondent has raised a preliminary objection to the maintainability of this appeal on the ground that the impugned order is an interlocutory order and no appeal lies against it. Reliance is placed on the judgment of Division Bench of this Court in ***Colonel Ramesh Pal Singh v. Sughandhi Aggarwal***, 2019 SCC OnLine Del 10402, in which the Division Bench held that the interim custody order of the children by the Family Court is an interlocutory order and no appeal would lie against it under Section 12 of the Guardians and Wards Act, 1890 being barred by the

Section 12 of The Family Courts Act, 1984. The Division Bench has referred to a decision of Hon'ble Supreme Court in *R.V. Srinath Prasad v. Nandamuri Jayakrishna*, AIR 2001 SC 1056 in this regard.

4. After some hearing, learned counsel for the petitioner seeks permission to withdraw this appeal with liberty to file a CM (M.) under Article 227 of the Constitution of India before the Single Bench.

5. The appeal is dismissed as withdrawn with liberty as prayed for. Pending application is disposed of.

6. The order be uploaded on the website of this Court forthwith.

J.R. MIDHA, J.

BRIJESH SETHI, J.

JULY 07, 2020
ds