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

+ **MAT. APP. (F.C.) 94/2020**

SUKHMANI KAUR

..... Appellant

Through: Mr. Praveen Kumar Sharma, Advocate
with appellant in person.

Versus

CHANPREET SINGH

.... Respondent

Through: Ms. Malavika Rajkotia, Advocate with
respondent in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

O R D E R

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04.08.2020

HEARD THROUGH VIDEO CONFERENCING

CM Nos. 17482/2020 & 17483/2020 (Exemption)

Allowed, subject to all just exceptions.

MAT. APP. (F.C.) 94/2020 & CM 17481/2020(stay)

1. The appellant/mother is aggrieved by an interim order dated 22.07.2020, passed by the learned Family Court, Patiala House on an interim application moved by the respondent/father for seeking permission to speak to his two-year old minor son, who has presently travelled with the appellant/mother to Los Angeles, USA, through video-calling on a daily basis for one hour and further, for issuing directions to her to return to India with the child and deposit her passport in the court.

2. By the impugned order, as an interim measure, the learned Family Court has directed the appellant/mother to ensure that the respondent/father

is given access to the child through video-call/WhatsApp once a month, i.e., on the first Sunday of every month starting from 03.08.2020, for a duration of 10-15 minutes at a fixed time. Further, the learned Family Court has observed that the main matter stands adjourned to 10.08.2020. On pursuing the impugned order, it is apparent that the aforesaid application moved by the respondent/father is still pending and the impugned order is interim in nature.

3. Mr. Sharma, learned counsel for the appellant/mother states that notice was issued on this application on 10.07.2020, returnable for 21.07.2020. However, the matter was adjourned on 21.07.2020 to 22.07.2020 and though he had requested the learned Family Court for some time to enable him to file a reply to the application as he was indisposed and had to undergo a M.R.I. due to lumbar problem, he was not accommodated and instead, the impugned order came to be passed.

4. We may reiterate that the impugned order is only an interim arrangement made by the learned Family Court pending disposal of the main application moved by the respondent/father.

5. Learned counsel for the appellant/mother also raises a grievance that the respondent/father has not paid a penny towards the maintenance of the child from January, 2019 till date, and despite an order passed by the learned MM in a petition filed by the appellant under the Protection of Women from Domestic Violence Act, 2005 permitting her to return with the child to the matrimonial home, the same is being opposed tooth and nail.

6. Ms. Rajkotia, learned counsel for the respondent/father states that aggrieved by the aforesaid order passed by the learned MM, the respondent had filed Criminal Misc. (C) No.4695/2019, wherein operation of the order

dated 13.09.2019, passed by the Trial Court in CC No.16176/2019, was stayed on account of the fact that the appellant (respondent therein) was unrepresented despite service. The next date fixed before the learned Single Judge in the captioned Civil Misc. (C) is 21.08.2020.

7. The aforesaid submissions can be made by both sides before the learned Family Court particularly since the application on which the impugned order has been passed, is still pending and is listed on 10.08.2020, along with the main matter.

8. Counsel for the appellant/wife seeks leave to withdraw the present appeal, while reserving the right of his client to oppose the application moved by the respondent.

9. The appeal is disposed of as not pressed, along with the pending application, with liberty granted to the appellant/mother to file a reply to the pending application moved by the respondent/father on or before 06.08.2020, with an advance copy to the learned counsel for the respondent, who may file a rejoinder thereto, with a copy to the other side on the date fixed before the learned Family Court. Parties shall be at liberty to take all the pleas that may be available to them before the Family Court.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

AUGUST 04, 2020

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