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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 3546/2019

NARAYAN DAS

..... Petitioner

Through

Mr. Ankit Aggarwal, Advocate with
petitioner in person.

versus

STATE & ORS

..... Respondents

Through

Mr. Chaitanya Gosain and Mr.
Divyank Tyagi, Advocates for Mr.
Rahul Mehra, Standing Counsel
(Criminal) for GNCTD with Insp.
M.S. Kamal and SI Indrapal Singh,
PS Madhu Vihar.
Mr. Rajesh Kumar Singh, Advocate
for R-3, 4 and 5.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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15.01.2020

Learned counsel appearing on behalf of Mr. Narayan Das and Ms. Chaitali Gupta, the petitioner and respondent No.5 respectively, invite our attention to the Settlement Agreement dated 04.01.2020, entered into between them, with the aid and assistance of Delhi High Court Mediation and Conciliation Centre.

A perusal of the Settlement Agreement in its essential recitals provides as under:

“The terms of the Settlement Agreement are detailed hereinbelow:-

1. The First Party, Second and Third Party agree to join hands to create a congenial and harmonious atmosphere for healthy upbringing, education and welfare of Master Rudra Das and the Second and Third Party agree to hand over the custody of Master Rudra Das to the First Party/father on

15.01.2020 at 5:00 pm. The Second and/or Third Party has agreed to drop the child at the residence of the First Party on 15.01.2020 at 5:00 pm and hand over the custody of Master Rudra Das to the First Party. The First Party has agreed and undertaken to take good care of welfare, education, upbringing and health of Master Rudra Das as a good father as per his resources with the help of his mother and father Mrs. Mamta Das and Mr. R.S. Das respectively.

2. The parties agree that the Second and Third Party shall be free to visit the house of the First Party to meet Master Rudra Das as and when they so desire or as and when desired by Master Rudra Das.
3. The parties agree that initially Master Rudra Das may take more time to settle down with the First Party and his parents. During this period, keeping in mind the welfare of the child, the First Party agrees to ensure more meetings of Master Rudra Das with Second and Third Parties.
4. The First Party states that Master Rudra Das shall continue to go to the same school i.e. Kalka Public School, Alakhananda, New Delhi till the new sessions starts in the month of March/April 2020. At the time of beginning of the new session, the First Party shall get master Rudra Das admitted in a school near to his residence. The First Party further agrees and undertakes to consult the Second Party for the purposes of admission of Master Rudra Das in the new school.
5. The parties agree that Master Rudra Das shall spend considerable time with the Second and Third Party and for this purposes Master Rudra Das shall visit the Second and Third Party on every Saturday and shall remain with them till 5:00 pm on Sunday. This arrangement shall be subject to the convenience of the parties and shall be agreed keeping in mind the study schedule and other co-curricular activities of Master Rudra Das.
6. It is further agreed between the parties that the master Rudra Das, shall spend 50% of Summer vacations and 50% of the Winter vacations with the First Party and remaining 50% of Summer vacations and 50% of the Winter vacations with the Second and Third Party. The parties shall mutually decide as to who will keep the minor child for the first half of the respective vacations and for the second half

of the respective vacations.

7. The First Party agrees that the Second and Third Party shall be free to take Master Rudra Das out of station with prior intimation to the First Party. The Second and Third Party shall share the complete travel plan and details of boarding and lodging of the Second and/or Third Party with Master Rudra Das with the First Party in advance.
8. The parties agree to meet the Mediator and Dr. Sanju Gambhir, Psychologist on every Third Saturday at 11:30 am at Samadhan (Delhi High Court Mediation and Conciliation Centre) starting from January 2020 till April 2020 to crease out the issues, if any between the parties. The parties further agree that in case Master Rudra Das is not initially comfortable staying with the First Party, he shall inform the Second Party and the Second Party shall extend her full cooperation keeping in mind the requirement of the child for making him comfortable in the new environment with this Father.
9. The parties agree that the present W.P.(Crl.) 3546/2018 may be disposed of in terms of the present Settlement Agreement.

That the parties undertake that they are bound by this Settlement Agreement and further undertake to abide by the terms and conditions set out in the agreement and not to dispute the same hereinafter in future.

The parties agree that in case of breach of any of the terms of the present Settlement Agreement by either of the parties or any dispute arises, the aggrieved party shall be at liberty to take appropriate legal remedy against the default party.”

The parties, namely, Mr. Narayan Das, the petitioner and Ms. Chaitali Gupta, the maternal aunt of the petitioner’s minor son, namely, Master Rudra Das are present in person and undertake to abide by the terms and conditions of the aforesaid Settlement Agreement, without demur.

Directed accordingly.

However, in view of the circumstance that, Master Rudra Das

has hitherto, been in the care of his maternal aunt, since the unfortunate demise of Mrs. Aditi Gupta-the wife of the petitioner-it is considered necessary to alter the terms agreed to between the parties to the limited extent that, Mr. Narayan Das, the petitioner shall visit the house of Ms. Chaitali Gupta everyday between 01:00 pm and 05:00 pm for the next five days-in order to establish a rapport with his minor son-before finally taking complete custody of the latter on 21.01.2020 at 01:00 pm.

With the above directions, the writ petition is allowed and disposed of accordingly.

A copy of this Order be given *dasti* under signature of Court Master to the learned counsel appearing on behalf of the parties.

A copy of this order be also sent to the Delhi High Court Mediation and Conciliation Centre for information.

SIDDHARTH MRIDUL, J

I.S.MEHTA, J

JANUARY 15, 2020/as