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

+ CM(M) 427/2022

SONIA ARORA

..... Petitioner

Through: Mr.Akhil Sharma and Ms.Ankita
Priya, Advocates with the petitioner
and child in person.

versus

HITESH ARORA

..... Respondent

Through: Mr.Aseem Nayyar, Mr.Tushar Anand,
Mr.Akhil Gandhi and Mr.Sunchit
Khanna, Advocates with respondent
in person.

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Date of Decision: 30th May, 2022.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present writ petition has been filed challenging the impugned order dated 05th April, 2022 whereby the learned Principal Judge, Family Court, South East District, Saket Court, New Delhi has declined to review the order dated 02nd March, 2022. As per the order dated 02.03.2022, learned Judge, Family court on an application moved by respondent father *inter alia* ordered that the petitioner-mother shall bring child to the children room at Family Court, Saket on every first



and third Saturday where the respondent-father will meet the child from 11 a.m. to 1 p.m. till the next date of hearing.

2. It is pertinent to mention here that 02nd March, 2022 was a Wednesday, however, immediately thereafter on 04th March, 2022, an application was moved by the petitioner-mother for review of order dated 02nd March, 2022. Learned Principal Judge, Family Court understanding the gravity of the situation listed the matter for 08th March, 2022. It is an admitted case that on 05th March, 2022 i.e. first Saturday after the order, the child was brought to the Children Room, however, on that day, as per the petitioner-mother, the child started crying and did not want to meet his father.
3. Mr.Hitesh Arora, respondent-father, who is present in court, has stated before this court that on 05th March, 2022, initially the child was fine and was talking to him but suddenly after being tutored by the petitioner-mother, the child started crying. Respondent-father further states that, in fact, the child started crying and became inconsolable only because of having been tutored and pressurized by the petitioner-mother.
4. While the matter was still pending, the order dated 02nd March, 2022 was challenged by the petitioner-mother before this Court in CM (M) 239/2022 which was dismissed by this Court vide order dated 16th March, 2022 as under:

“The challenge made in the present petition is to the orders of 2 and 8 March 2022 passed by the Principal Judge, Family Court, South East District, Saket. In terms of those orders, the Principal Judge has accorded visitation right to the respondent. By the order of 8 March 2022, the Court has refused to place the



aforesaid order in abeyance. According to learned counsel when the father met the child on 5 March 2022 for interaction as permitted, an unsavoury incident occurred in the Children's Room and it is this which would warrant the order impugned being modified.

The Court however notes that till date the petitioner has failed to bring those facts pertaining to the incident that is stated to have occurred to the notice of the concerned Family Judge. It was clearly obligatory on the part of the petitioner to bring those facts to the notice of the Family Judge in the first instance enabling the Family Judge to firstly consider whether the order passed merited modification. In view of the aforesaid, the Court finds no ground to interfere with the order impugned.

The writ petition fails and shall stand dismissed. However this order shall not preclude the petitioner from approaching the concerned Family Judge for further directions/modifications as may be chosen and advised."

5. The matter was again taken up on 02nd April, 2022 and learned Principal Judge, Family Court interacted with the child alone in her chamber for 20 minutes. The learned Principal Judge, Family Court passed the following order:

"HMA No.821/19

Sonia Arora Vs. Hitesh Arora

02.04.2022

Matter is taken up physically as well as through video conferencing via Webex meet.

Present: Petitioner with Counsel Sh. Akil Sharma have appeared physically.

Respondent with Counsel Sh. Asim Nayyar have appeared physically.

Petitioner has brought the child "kiaan" in the court. I have talked to both the parties in the chamber for around 45 minutes and thereafter I talked to the child "Kiaan" alone in my chamber for around 20 minutes. Child is studying in DPS, Vasant Kunj.



He has passed the 5th Standard this session and has gone into 6th Standard. He loves Maths most and does not like French. After talking with the child it does not seem that he has any aversion in meeting with his father or paternal grand parents. However, plea of the petitioner is that last time when the respondent met the child in the Children Room, after that the condition of the child was not good and she had to take him to a Psychiatrist. Today, also petitioner submits that child is going to a Psychiatrist at C.R. Park.

Since as per the order dated 02.03.2022, the respondent is required to meet the child on every first and third saturday.

I have perused the report of the Psychiatrist dated 10.03.2022. Petitioner has stated that on coming Monday i.e. on 04.04.2022, she is taking the child to the Psychiatrist again.

Let petitioner shall brought the child to the court for interaction with the child on date fixed i.e. on 05.04.2022 at 3:00 pm.

List the matter on date fixed.

Copy of order be given Dasti. ”

6. Thereafter, in an application for review, on 05th April, 2022, the learned Principal Judge, Family court after recording the proceedings and observing the conduct *inter alia* passed order as under:

“After seeing the condition of the child and after talking with both the parties it does not seem that the child is under fear to appear in the court or to talk with the undersigned as he was normal and chirpy child on 02.04.2022. Now today also when he came and was sitting in the court he was absolutely normal and was not crying but when called in the chamber suddenly he started crying which clearly shows that he is tutored and pressurized. Though, undersigned did not want to write the word pressurized but seeing the condition on 02.04.2022 and today, this is the only inference which can be raised. In such circumstances the application of the petitioner to review the order dated 02.03.2022 is dismissed.”



7. I have also interacted with the petitioner-mother, who is present in person. Petitioner-mother states that, in fact, the child does not want to meet the father at all and for the last 3 ½ years there was no meeting at all with the father. She states that now the child is totally averse meeting him and rather had anxiety attack after meeting him. It has been stated that therefore the order dated 02nd March, 2022 be reviewed by the Court.
8. *Per contra*, the plea of learned counsel for the respondent is that in fact, the child has been tutored and pressurized by the mother and it is in the welfare of the child that child must meet his father. Learned counsel submits that in order to obviate any difficulty to the child, the respondent-father may meet the child in the Children Room, only in the presence of the Counselor and such meeting can be recorded in the CCTV camera.
9. It is an admitted case that the application for visitation rights is still pending. This court must record the appreciation of learned Principal Judge, Family Court for the alacrity with which the present applications have been taken, and requests learned Principal Judge, Family Court to dispose of the application for visitation rights of father under the Guardians and Wards Act at the earliest possible.
10. Meanwhile, the child Kiaan be brought to the court as per the order dated 02nd March, 2022 and the learned Principal Judge, Family Court shall facilitate the meeting of the child with the father in the presence of the counselor with the CCTV recording on every first and third Saturday. The learned Principal Judge, Family Court may also be



advised to watch CCTV recording of 05th March, 2022 before deciding the application for visitation rights under the Guardians and Wards Act. The learned Principal Judge, Family Court may also consider appointing a child counselor to examine the child and report to the court. The expenses of the child counselor shall be borne by the respondent-father.

11. With these observations, the present writ petition stands disposed of.

DINESH KUMAR SHARMA, J

MAY 30, 2022

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