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

+ C.R.P. 144/2022, CM APPLs. 40915-16/2022.

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Date of Decision: 27.09.2022

RAHUL KHETARPAL

..... Petitioner

Through: Ms. Pinky Anand, Sr. Adv. with
Mr. Kirti Dua, Mr. Ashish and
Mr. Anshul Gupta, advs.

versus

VIDHI JAIN

..... Respondent

Through: Mr. Giriraj Subramaniam,
Mr. Abhishek Choudhary and
Mr. Ravi Pathak, Advs.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

CM APPL. 40916/2022 (exemption)

1. Allowed, subject to just exceptions.

CM APPL. 409154/2022 (Condonation of delay)

2. This is an Application for condonation of delay of three days in filing the Revision Petition.

3. Issue notice.

4. The Counsel for Respondent accepts notice and fairly submits that he has no objection if this delay is condoned.

5. The Application is accordingly disposed of.

C.R.P. 144/2022

6. The present Petition has been filed seeking the following prayers:



*“a) Quash and /or set aside the Order dated 23.05.2022 passed by the Ld. Judge, Family Court, South East, Saket, New Delhi in Civil Suit No. 979 of 2021 titled as “Vidhi Jain Vs. Rahul Khetarpal”
b) Pass an order granting visitation rights to the Petitioner”*

7. At the outset, it is noticed that the above Prayer Clause mentions Civil Suit No. 979 of 2021 titled as “*Vidhi Jain Vs. Rahul Khetarpal*”, however, the true copy of the Impugned Order mentions the Petition as HMA Petition No. 1088 of 2021 at one place and at another place mentions HMA Petition No. 420 of 2021.
- 7.1 Learned Counsel for the Petitioner has submitted that this is an inadvertently typographical error and the correct HMA Petition No. is 1088 of 2021. The correct Petition is accordingly treated as HMA Petition No. is 1088 of 2021.
8. The Learned Counsels for the Parties have been heard briefly in the matter.
- 8.1 It is submitted by the Learned Senior Counsel appearing for the Petitioner that the Impugned Order dated 23.05.2022 has the issue of guardianship of the minor child without granting any right of visitation to the Petitioner (Father). In this regard, the Learned Counsel seeks to rely on the following Judgments:
 - (i) Yashita Sahu Vs. State of Rajasthan, reported as (2020) 3 SCC 67;
 - (ii) Ruchi Majoo Vs. Sanjeev Majoo, reported as (2011) 6 SCC 479;
 - (iii) Lahari Sakhamuri Vs. Sobhan Kodali, reported as (2019) 7 SCC



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(iv) Anjali Kapoor Vs. Rajiv Baijal, reported as (2009) 7 SCC 322.

8.2. The Learned Counsel for the Respondent on the other hand submits that at present, there is no Application for visitation that has been filed or pending before the Family Court by the Petitioner. The Counsel for the Respondent fairly submits that, if any such Application is filed before the Family Court, orders in respect of the same will be passed by the concerned Family Court. The Counsel for the Respondent seeks to rely on the following Judgments:

(i) Neelam Kumari Sinha Vs. Shree Prashant Kumar reported as MANU/BH/1078/2010;

(ii) Dilip Kumar Vs. Luxmi Devi reported as MANU/UP/0494/1996.

9. After some arguments, it is submitted by the Learned Senior Counsel for the Petitioner that they shall approach the Family Court with an appropriate Application for grant of rights to visit the minor child, and that such Application be decided by the concerned Family Court.

9.1 Learned Counsel for the Respondent on the other hand submits that he can have no objection to the same.

10. In view of the submissions made by both the parties, the following directions are passed with the consent of both Parties:

(i) The Petitioner may move an appropriate Application for visitation of the minor child before the Family Court in the HMA No. 420/2021.

(ii) As and when such Application is filed, the Family Court is



requested to hear and decide the Application as soon as is possible.

11. It is made clear that this Consent Order/Directions should not be construed as any opinion on merits in the present matter. All rights and contentions of the Parties are left open *albeit*, in accordance with law.
12. The present Revision Petition along with pending Application stands disposed of.

TARA VITASTA GANJU
(JUDGE)

SEPTEMBER 27, 2022

Pallavi/ SA/AT

Click here to check corrigendum, if any