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

**+ CM(M) 1207/2021, CM APPL. 47204/2021, CM APPL. 6927/2022 & CM APPL. 25024/2022**

**MR NITIN KHETAN ..... Petitioner**

Through: Mr.Bharat Arora, Advocate

versus

**MRS EKTA KHETAN ..... Respondent**

Through: None.

*% Date of Decision: 27th 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 petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 10.12.2021 passed by the learned Family Court, East District, Karkardooma Courts, Delhi in G.P.No.39/21. The impugned order dated 10.12.2022 passed by the Trial Court is reproduced hereinbelow:

> *"10.12.2021*
>
> *File taken up today on two application filed on behalf of petitioner out of which one is for initiating contempt proceedings against the respondent for disobedience and non-compliance of order dated 30.10.2021 and another application for visitation rights of both the minor children namely 'K' aged about 8 years*



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*and 'V' aged about 2 years to the petitioner during the Winter Vacations.*

*Present: Sh. Pradeep Gahlot, Ld. Counsel for the petitioner.*

*Heard. File perused.*

*In the application for initiation of contempt proceedings against the respondent, it is mentioned in para no. 8 of the application that the respondent made a request to the school and got the name minor child of 'K' stuck off from the school roll vide circular No. DPS/RECI17 dated 28.10.2021 and respondent has forcibly taken the children to Kanpur in a fit of rage. It is further mentioned that child 'K' has been re-admitted to the school because of numerous requests made by petitioner to the principal of the school and after payment of re-admission fee as per the school rules. It is further mentioned in para no. 9 of the application that respondent has intentionally removed child 'K' from Delhi Public School, Mathura Road and respondent has given in writing to the school to strike off the name of child 'K' and got issued "Transfer Certificate" and this speaks volume that respondent has no concern about the welfare of the minor children. Similar averments are made in the another application for visitation rights filed on behalf of petitioner.*

*The notice of the petition was issued to the respondent and on the notice it was reported that the respondent has left for U.P for the last many months. Thereafter, order dated 30.10.2021 was passed by this court. The petitioner himself in both the applications has mentioned that the respondent gave in writing to the school authorities and got the name of 'K' stuck off from the school roll vide circular No. DPS/RECI17 dated 28.10.2021. As per para no. 8 of the application child 'K' has been re-admitted to the school because of numerous requests made by petitioner to the principal of the school and after payment of re-admission fee as per the school rules.*



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*It is not made clear by Ld. Counsel for the petitioner that whether both the children are residing within the jurisdiction of this court or not. For issuance of*

*notice of both the applications and for maintainability of the present petition, it is required to place on record any document to show that both the children are residing within the jurisdiction of this court and this court has jurisdiction to try and entertain the present petition as well as both the applications filed on behalf of petitioner.*

*As per Section 9 of The Guardians and Wards Act "If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides". Thus, as per averments of both the applications, both the minor children are not residing within the jurisdiction of this court and they are residing in U.P.*

*It is not made clear whether the child 'K' has attended the school after his re-admission and payment of school fee by the petitioner. Ld. Counsel for the petitioner is directed to place on record any document to show that both the children are residing within the jurisdiction of this court. Thereafter, notice of both the application be issued to the respondent. Ld. Counsel for the petitioner is at liberty to file any documents to show that both the children are residing within the jurisdiction of this court.*

*Matter be listed for date already fixed i.e. 25.03.2022. Copy of order be given dasti as prayed by Ld. Counsel for the petitioner."*

2. The grievance of the learned counsel for the petitioner is that though there are materials on record, still the trial court had asked for more documents to decide the question of jurisdiction. Second grievance is that a long date has been given which practically has deprived the petitioner-father from his visitation rights. Learned counsel for the petitioner submits that the respondent is not appearing even before this Court only with an intention to



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delay the matter. Learned counsel further submits that he would be satisfied if the direction is given to the trial court to decide the question of jurisdiction and the application moved for visitation rights expeditiously.

3. It has been informed that next date fixed before the learned trial court is 02nd June, 2022. The learned trial court is requested to take up the matter on the date fixed and decide the question of jurisdiction and application moved for visitation rights in accordance with law.

4. With these observations, the petition along with all pending applications stands disposed of.

**DINESH KUMAR SHARMA, J**

**MAY 27, 2022/**rb



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