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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**C.R NO. 2470 OF 2020 (O & M)
DATE OF DECISION: 03.05.2023**

Ranmeet Singh Chahal

... Petitioner

versus

Dr. Geeta Grewal Chahal

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Aalok Jagga, Advocate and
Mr. Varkirat Singh Jagdev, Advocate,
for the petitioner.

None for the respondent.

ARUN MONGA, J. (ORAL)

Revision is directed against order dated 28.09.2020 passed by Additional Principal Judge, Family Court, Gurugram (for brevity, 'Family Court') vide which application filed by petitioner/father seeking temporary custody of minor children for summer vacation ensuing from 24.05.2020 to 30.06.2020, was dismissed.

2. Succinct facts first, as pleaded in the instant petition.

2.1 Petitioner filed a petition under Section 25 of the Guardians and Wards Act, 1890 (hereinafter referred to as "the Act") read with Hindu Minority and Guardianship Act, 1956 for custody of his minor sons. Said petition was contested by the respondent/wife but written statement is yet to be filed.

2.2 During initial proceedings, on consent of both the parties, matter was referred to Mediation and Conciliation Centre, Gurugram. On the statement of parties, a consensual order was passed by learned

Additional Principal Judge, which is impugned herein, wherein directions have been issued that during Weekends/holidays, children would spend time in the ratio of 60% with father and 40% with mother, as per convenience of children.

3. Perusal of the impugned order reflects that application was dismissed due to peculiar circumstances caused by spread of COVID-19 pandemic and in the welfare of children to avoid travel during the period when entire country was under lockdown and there was no public transport also operating during the relevant period. To that extent, the said order was passed without commenting on the merits other than the fact that it was caused by force *majeure* owing to pandemic.

4. No interference is called out for. In any case, I am of the view that application which was disposed of was for a particular vacation and the same since having got over long ago, it is not necessary now to go into the purely academic question as to whether there were any other reasons/circumstances other than pandemic for passing the impugned order. Furthermore, even learned Family Court's order impugned herein shows that same would operate qua vacation from 24.05.2020 to 30.06.2020 and shall not in any manner, otherwise adversely affect rights of petitioner with regard to visitation rights granted to him pursuant to a mutual agreement arrived at between the petitioner and respondent-parents of minor children as recorded in order dated 18.01.2020 (Annexure P-1) and the same had been kept intact. For ready reference, said order is reproduced herein below:

“ Today, the case was fixed for filing reply. However, both the parties along with children have appeared before the Court and made a statement to the effect that during the pendency of the present petition the custody of children would remain with the respondent-mother. At the same time

petitioner-father would have right of quality visitation which includes communication between the children and father as per the their convenience. Also, weekends/holidays children would be spent time in the ratio of 60% with father as per convenience of the children. It is mutually agreed that on coming Saturday and Sunday children would accompany their father to meet their grandmother at Mohali/Chandigarh and petitioner would ensure that they are brought back safety before school and the custody be handed over to the respondent. Heard. On request, the case is adjourned to 10.04.2020 for filing reply by respondent.”

5. The aforesaid order has since not been challenged by either side and I see no reasons as to why it cannot be implemented in letter and spirit, since both the sides seem to be having no grievance *qua* the same. In any case, as recorded in the order above, it was passed on mutual consent of both the parties. Furthermore, I may hasten to add here that in the instant petition proceedings earlier, on one occasion I have had the opportunity to interact with the parties through video conferencing as well as in person, in presence of minor children, as is borne out from orders dated 22.12.2020 read with order dated 27.05.2021, which being of some relevance, are reproduced herein below :

Order dated 22.12.2020

“I have interacted with the parties in person through video conference as well as heard learned counsel for the parties at some length.

Without commenting on the merits of the case, given the educational background and the status of the respondent-wife, it is expected of her not to deprive the children of their father in the natural course of their upbringing. Keeping in view the larger interest and welfare of the children, at this stage, it is best to overlook the allegations and counter allegations between their parents.

On the asking of Court, learned senior counsel for the respondent- wife sought instructions from the mother of the children and suggest that during the course of winter vacations, the father may shift from Mohali to either Gurgaon or Delhi so that the children are not dislodged from their current place of living, and the petitioner-father can then meet the children in Gurgaon. Learned counsel for the

petitioner and petitioner himself are also ad idem with the said suggestion of learned senior counsel. Though learned senior counsel has suggested that the mother is willing to allow the visitation for a duration of 2 hours i.e., 5.00 PM to 7.00 PM for a period of one week, which is half the vacation period, at a public place viz. Ambience Mall, Gurgaon, however, given the current pandemic conditions, it may not be desirable to meet at a public place/mall. It would be rather more pandemic safe if the children meet their father at a place where the father proposes to reside. To allay any others fears of the mother, petitioner shall ensure that he stays at place which is fitted with CCTV cameras.

Considering that the only reason father would be staying in Delhi/ Gurgaon is to meet his children, in the interest of justice, let visitation be provided to him between 4.00 PM to 7.00 PM from 04.01.2021 to 11.01.2021.

The mother of children is apprehensive about above arrangement and is of the opinion that the children are, at this stage, not even willing and ready to meet their father even for two hours. However, this concession of visitation is being offered by her only in the welfare of children, so that they are not deprived of their father. This court appreciates her endeavour to allow the father to meet the children.

In the entirety of the situation, I am of the opinion that to begin with, let on the first day the children be allowed to meet their father between 4.00 PM to 7.00 PM for 3 hours and thereafter it is left to the discretion of the mother to reduce the duration, in case the children are not comfortable or not willing to meet their father. Both the parties are expected to extend their full cooperation in the interest of welfare of their children, by keeping their differences aside, so as to not impede the implementation of order being passed. They should rather appreciate that instant interim arrangement is being ordered only for the welfare of the children.

It is also left open to the parties to mutually agree to increase the duration of visitation in case the children would make such a request. Adjourned to 28.01.2021.

Order dated 27.05.2021

Pursuant to order dated 25.05.2021, parties were asked to join video conferencing in person along with the minor children. However, after interacting with the parents, I do not consider it appropriate to meet the children, even though they are available to join the video conferencing, as no matter whatever be the interface in court proceedings, it generally leaves a negative impression, not easily forgettable, on the minds of children that they were summoned to Court.

After the able assistance of both learned counsels, they as well as the parents have mutually agreed that subject to relaxation in the lockdown after 31.05.2021, the respondent-mother shall allow visitation to the petitioner-father by handing over the custody of the children from her residence at 10.00 AM on 04.06.2021 and the petitioner shall restore the custody of the children with their mother post lunch at 3.00 PM. The said time period can be mutually relaxed subject to the children agreeing to stay with their father for a long duration, but in any case, not later than 6.00 PM so they are well at home much before the dinner time. Similar exercise would be carried out on the subsequent date i.e 05.06.2021. The aforesaid arrangement is being done with the consent of the parties. In case of better bonhomie after the two meetings, if the children wish to spend more time with their father, the parents are at liberty to carry out similar exercise on Sunday i.e. 06.06.2021. Adjourned to 14.07.2021 to await the outcome.”

5.1 Another order dated 27.12.2022 was passed in the case by my learned sister Manjari Nehru Kaul, J. (then seized of the case) relevant whereof is reproduced as under :

“xxx

The prayer made by learned counsel or the petitioner for handing over the temporary custody of the children to him so as to accompany him to Mohali during the ongoing winter vacation is declined. However, at the same time, the petitioner, if so desires to spend quality time with his children during the ongoing winter vacations, would be at liberty to travel to Gurgaon where the children are presently residing with the respondent. The respondent-mother would ensure that the children are allowed to meet the petitioner every day for four hours i.e 2:00 pm to 6:00 pm from 03.01.2023 to 09.01.2023 at Gurgaon. However, to allay the fears of the respondent that the petitioner may try to influence the minor sons and poison them against her, the meeting shall be at a place where adequate CCTV cameras are fitted. The petitioner shall intimate the respondent the place where he and the children would be meeting from 03.01.2023 to 09.01.2023 in Gurgaon.

Xxx”

6. The revision petition is disposed of with an observation that parties shall remain bound by mutual agreement arrived at between them before learned Family Court vide order dated 18.01.2020 (Annexure P-1)

as well as spirit in which the aforesaid interim orders were passed by this

Court after interaction with them. It is made clear that orders passed in course of these proceedings shall in no manner dilute the temporary custody granted to petitioner vide order dated 18.01.2020 passed with mutual agreement arrived at between the parties before learned Family Court i.e., 60% of the weekend/holidays of the children with the petitioner/father and 40% with respondent/mother.

7. Since none appears for respondent, same is suggestive of the fact that she no longer wants to contest the revision petition. In any case, impugned order dated 28.09.2020 passed by learned Family Court, subject matter of instant petition, has not been challenged by respondent/mother and grievance herein is of the petitioner/father *qua* implementation of same.

8. With these observations, revision petition is disposed of. Parties to strictly comply with the terms of order dated 22.12.2020 *ibid* passed by this Court as well as order dated 27.12.2022 passed by a Co-ordinate Bench presided over by Manjari Nehru Kaul, J., failing which they will be liable to face the consequences.

May 03, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No