



\$~31

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 % **Date of decision: 09th August, 2023**
 + **MAT.APP.(F.C.) 40/2023 & CM APPL.6717/2023**
SUGANDHA SHARMA Appellant

Through: Ms. Shefali Jain and Ms. Shikha Sapra,
 Advocates.

versus

AMIT SHARMA Respondent

Through: Mr. Prashant Yadav and Ms. Laxmi Gaur,
 Advocates with respondent in person.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

MAT.APP.(F.C.) 40/2023

1. An appeal under **Section 19 of the Family Courts Act, 1984** has been filed against the Order dated 31.01.2023 vide which the learned Judge, Family Court has granted visitation rights to the respondent/ father for every first and third Saturday of the month in the Children Room, Dwarka Court from 03:00 P.M to 04:00 P.M.

2. It is submitted that the impugned Order had been made in undue haste and is patently illegal and perverse as the interest and welfare of the child has been over looked and a pedantic approach has been adopted. Various transcripts of virtual calls which evince cruel, harsh and negative behaviour of the respondent has been completely overlooked. The learned Court did not even once interact with the child to understand his mental state of mind before passing the impugned order. The minor child has been recently discharged from the hospital and is recovering from swine flu and imposition of such decisions can cause a lifetime devastating impact upon



the child's health who is barely seven years' of age. Separation of the child even for a short duration from the parent with whom the appellant and the child's sister are residing would be a source of great agony to the child. Moreover, the respondent has never visited the child and has not contributed even a penny for his upbringing. He has miserably failed to discharge his responsibilities as a father. The impugned order granting visitation is, therefore, liable to be set aside.

3. Learned counsel on behalf of the father/respondent has vehemently submitted that the child is barely seven years of age and is being consistently deprived of even meeting the child. He being a father, has an important place in the upbringing of the child and unless he is permitted to interact with the child, he would not be able to establish any bonding. He being the father cannot and does not have any interest adverse to that of the child. It is submitted that the impugned order does not merit any modification and the appeal is liable to be dismissed.

4. **Submissions heard.**

5. It is not in dispute that the appellant and the respondent got married on 11.07.2013 according to Hindu rites and customs. One son Shresth was born from the said wedlock on 21.01.2016. Differences arose between the parties after the marriage and they separated on 15.09.2021. Since then the appellant has been residing in her parental home with her mother who is 67 years of age. She also has a daughter Yashvi from her previous marriage, who is also living with them.

6. It is not under challenge that since 15.09.2021, the appellant is taking care of both, the daughter as well as the son. It is also not in dispute that the respondent/ father has not been able to meet the child since then.



7. It is in the interest and welfare of the child that he gets love and affection of both the parents. He is of tender age of seven years and needs to be given some access to his father so that he can develop rapport with his father. The learned Judge, Family Courts after giving due consideration to the submissions of the appellant, has permitted limited access to the father/respondent by directing that the child shall be meeting the father every first and third Saturday of the month from 03:00 P.M to 04:00 P.M in the Children Room, Dwarka Courts.

8. Aggrieved by the Order, the appellant has contested even this limited access on the basis of a Report of Psychologist. The learned Counsel for the appellant has placed reliance on the Psychologist's Report wherein it is stated that the detailed counselling session was held with both the children i.e. Yashvi and Shresth aged 17 years and 6 years respectively on 13.01.2022 and 14.01.2022. The children on interaction, revealed that they were troubled by repeated intrusive attempts and threats given to them by the father. The Report concluded "*The children were counselled and their fear and insecurities were addressed. The two need regular counselling session. They seemed significantly traumatized and negatively affected by the current conditions.*"

9. Though, not much comment is required to be made on this Report of the Clinical Psychologist, but it may be mentioned that the child was barely five and half years old when the parents separated and since then the child has had bare minimum interaction with the father. In the circumstances, the reason why the child is under fear or traumatized, is a mystery which is for anyone to unravel. The only inference that can be drawn is the children have perceived the situation as told to them by the parent in whose custody



the children are. It is also interesting to note that aside from the Report of Clinical Psychologist wherein the children were examined in January, 2022, there is no further Report that the children have been under regular counselling. It may also be mentioned that while the boy Shresth may have been traumatized by the situation but why and how the elder daughter Yashvi aged 17 years was traumatized and was also taken to the Clinical Psychologist is for anyone to guess.

10. Considering the tender age of the child and that it is in the interest of the child that he commences with baby steps of limited access which may subsequently bloom into a more cordial relationship, we find that there is no ground to interfere with the visitation rights granted by the impugned Order. It is, however, directed that the meetings in the Children Room shall be held in the presence of Counsellor to avoid any acrimonious situation.

11. We hereby **dismiss** the Appeal as being without merit.

12. The pending application, if any, also stands dismissed.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 09, 2023/va