

\$~8

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

% Judgment delivered on: 10.05.2023

MAT.APP.(F.C.) 157/2020

+ MAT.APP.(F.C.) 157/2020

SMT. POONAM CHATURVEDI Appellant

versus

SHRI MANAS CHATURVEDI AND ORS. Respondents

Advocates who appeared in this case:

For the Appellant: Mr. Nitin Pratap & Mr. Gopal Sharma,
Advocates.

For the Respondent: Mr. Sandeep Sharma, Advocate with
Mr. Amit Choudhary, Advocate for
Respondent Nos. 1, 2 & 4.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL. 33998/2020 (for condonation of delay)

1. For the reasons stated in the application, the application is allowed. The delay in filing the appeal is condoned.
2. The application stands disposed of.

MAT.APP.(F.C.) 157/2020 & CM APPL. 6540/2021(for early hearing), CM APPL. 20901/2021(for filing additional documents), CM APPL. 33710/2021(filed on behalf of appellant no. 1 seeking directions)

1. Appellant impugns judgment dated 14.07.2020, whereby respondent No. 1 and respondent No. 2 were appointed as the guardians of the minor children.
2. Pursuant to filing of the present appeal, by order dated 10.02.2021, the executing court was permitted to proceed further with the execution for transferring the custody of the minor children to the respondent. Subsequent thereto, the custody of the minor children were transferred to the respondents on 03.02.2022. An agreement was further arrived at between the parties whereby the custody of the minor children was returned to the appellant.
3. It is an admitted position that the two minor children are now residing with the appellant in her custody and under her guardianship.
4. Parties have settled their disputes. It is agreed that the appellant shall continue to have custody of the children and shall be the lawful guardian of the two minor children.
5. In view of the above, it is further directed that the appellant shall be deemed to be the lawful guardian of the two minor children (Utkarsh Chaturvedi and Nimisha Chaturvedi, both born on 18.06.2008). It is directed that for all practical and legal purposes the

appellant shall be deemed to be the lawful guardian of the two minor children.

6. Appellant and respondent No. 1 have further settled their disputes with regard to their *inter se* matrimonial relationship.

7. Affidavit dated 05.04.2023, attested on 10.05.2023, has been handed over in Court in original. The same is taken on record.

8. Both the appellant and respondent are present. Both parties have agreed to dissolve their marriage by mutual consent.

9. It is agreed between the parties that respondent shall pay a total amount of Rs. 16 lakhs in full and final settlement of all claims of past, present and future maintenance and alimony of the appellant. It is agreed that the amount shall be paid in two equal installments of Rs. 8 lakhs each. The first installment would be paid at the time of recording of the statement for the first motion and second at the time of recording of the statement for the second motion.

10. Appellant and Respondent are present in person, they undertake that they shall abide by the terms and conditions of the settlement as recorded in the affidavit. The undertakings are accepted.

11. Parties further pray that keeping in view the fact that they have separated since December, 2014, they shall be praying to the concerned Family Court for granting waiver of statutory period as required under Section 13B(2) of the Hindu Marriage Act, 1955.

12. We have perused the terms of settlement and find the same to be lawful. The settlement is also taken on record.

13. Appeal is disposed of in the above terms. Parties are bound down to their undertaking given to the Court.

14. On an application being filed, before the Family Court, seeking waiver of the statutory period, the Family Court shall take into account the fact that parties have been living separately since 2014 and have even been litigating, though for the purposes of guardianship of the minor children, and pass appropriate orders in accordance with law on the application seeking waiver of the statutory period.

15. Order dasti under signatures of Court Master.

16. Copies of the affidavit be also supplied to parties under the signature of Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

MAY 10, 2023
MR