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

% *Date of decision: August 02, 2023*

+ MAT.APP.(F.C.) 149/2020 & CM APPL. 31908-31909/2020

RUCHIKA MAZUMDAR Appellant

Through: Ms. Sujata Kashyap, Advocate along
with appellant in person.

Versus

HIMANSHU MITRA Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present appeal under Section 19 of the Family Courts Act has been filed by the appellant seeking setting aside of orders dated 16.09.2020 and 06.11.2020 passed by the learned Principal Judge, Family Courts, New Delhi in HMA No. 1821/2019, titled as *Ruchika Mazumdar Vs. Himanshu Mitra.*”

2. Pertinently, the parties got married on 30.03.2015 and a child, namely, Master Abhirup, was born from this wedlock. The parties have been living separately since September, 2017 and the child has been in the custody of appellant-mother. The learned Principal Judge, Family Court vide order dated 16.09.2020 granted custody of the child to the respondent-father for



every Saturday and Sunday. Aggrieved against the order dated 16.09.2020, the appellant filed an application seeking revocation of the same, which was dismissed by the learned trial court holding “*there is no apparent error on the face of the record neither the order can be revoked or suspended or varied*”.

3. Being aggrieved, the appellant-mother knocked the door of this Court by filing the present appeal seeking quashing of the impugned orders and stay of proceedings before the learned trial court.

4. This Court after extensively hearing learned counsel for the parties vide order dated 08.12.2020 passed the following interim directions:-

“5. After interacting with learned counsel for the parties not only in respect of the dispute, subject matter of the present appeal but also on other disputes pending between the parties including the divorce petition filed by the appellant against the respondent and both parties have agreed to break the ice, it is agreed that the initial visitation rights in respect of the child be confined to half a day on every Saturday. Accordingly, till further orders, it is directed that the respondent shall pick up the child from the residence of the appellant at Dwarka at 10 A.M. on every Saturday and take the child to his residence at C.R. Park. He shall not take the child out of his residential premises due to the COVID-19 pandemic. The respondent and his parents shall spend time with the child, who shall be brought back to the appellant's resident by 3 P.M. on the same day. For the appellant to ensure that the child is comfortable with the respondent and his family members during the visitations, the respondent shall arrange a video call between her and the child at around 12 P.M.”

5. The aforesaid order dated 08.12.2020 was further modified by this



Court vide order dated 03.03.2021, holding as under:-

“Vide order dated 08.12.2020 the respondent was granted visitation rights; whereby he was permitted to pick up the child from the residence of the appellant at Dwarka at 10 A.M. on every Saturday and take him to his residence at C.R. Park, the child was to be dropped back by 3 P.M. on the same day at Dwarka. Considering the significant distance between Dwarka and C.R Park, as also the time taken for commuting, we are inclined to extend the time period from 10 am— 3 pm, to 10 am—5 pm. The other terms and conditions of the said order shall continue to operate. Interim orders to continue.”

6. Evidently, this Court vide aforesaid order dated 03.03.2021 the respondent-father was granted visitation rights on every Saturday from 10:00 AM till 05:00 PM.

7. Today, we have interacted with the parties in chamber. It is not disputed that the respondent-father has been meeting the child as per interim arrangement directed vide order dated 03.03.2021. As per the submissions of the parties, this arrangement is working well without any hiccups considering the totality of circumstances and that the child is comfortable with the father on his weekly visits. It is considered in the interest and welfare of the child that he continues with the day visitations. However, the order dated 03.03.2021 is modified to the extent that respondent-father shall now have visitation right to meet his child on every Saturday from 10:00 AM till 07:00 PM instead of till 05:00 PM.

8. The present appeal is accordingly disposed of with direction to the learned Principal Judge, Family Courts, New Delhi, to decide application under Section 26 of the Hindu Marriage Act, afresh and to consider grant of



overnight or increased visitations after interacting with the child of the parties.

9. Pending applications are disposed of as infructuous.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 02, 2023

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