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

% Judgment delivered on: 30<sup>th</sup> May, 2023

**MAT.APP.(F.C.) 130/2023**

+ **MAT.APP.(F.C.) 130/2023 & CAV 295/2023 & CM APPL. 23616/2023 & CM APPL. 23618/2023 & CM APPL. 29055-29056/2023 & CM APPL. 29334/2023**

**SHILPA SOOD** ..... Appellant

versus

**VIVEK MALHOTRA** ..... Respondent

**Advocates who appeared in this case:**

For the Appellant: Mr. Rishi Manchanda with Mr.Siddharth Mullick, Advocates for appellant with appellant in person.

For the Respondent: Respondent in person

**CORAM:-**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

1. Appellant impugns order dated 03.02.2023 whereby access to the child has been granted to the respondent.

2. Learned counsel for the appellant submits that the Family Court has passed the impugned order without taking any opinion from the Child Counsellor. He submits that the parties were separated even before the birth of the child and the child had never stayed or spent



any time with the respondent. He submits that the access was granted to the respondent during pendency of the proceedings. He submits that before taking any final decision in this regard, the Family Court should have consulted the Child Counsellor to ascertain the comfort and well-being of the child in so far as the visitations are concerned.

3. Respondent, who appears in person, submits that it is in the welfare of the child that the child should have a shared parenting and love and affection of both the parents. He submits that there is no justifiable reason to deprive the respondent of visitation and access to the child including overnight access. He, however, concedes that no Child Counsellor was consulted prior to passing the impugned order. Respondent states that he would have no objection if the matter is remitted to the Family Court so that the Family Court can take a final view in the matter after consulting the Child Counsellor.

4. In view of the above, the impugned order dated 03.02.2023 is set aside and the matter is remitted to the Family Court. Thus, the application seeking interim overnight access stands restored to its original number.

5. The Family Court is directed to have assistance from a Child Counsellor. The Family Court shall ensure that the respondent gets unsupervised access to the child in the presence of the Child Counsellor and a report be called from the Child Counsellor to ascertain the comfort and well-being of the child prior to taking a final view on overnight access to the respondent.



6. Respondent submits that on an application filed by him, the matter is listed before the Family Court on 07.06.2023.
7. In view of the above, the parties shall appear before the Family Court on 07.06.2023 for further directions.
8. Appeal is disposed of in the above terms.
9. Order Dasti under the signatures of the Court Master.

**SANJEEV SACHDEVA, J**

**MANOJ JAIN, J**

**MAY 30, 2023**  
**st**



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