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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 24.08.2023

W.P.(CRL) 1385/2021

SALEEM UDDIN

..... Petitioner

Versus

STATE & ORS.

.... Respondents

Advocates who appeared in this case:

For the Petitioner	:	Mr. Talha Abdul Rahman, Ms. Gayatri Dahiya Mr. M. Shaz Khan & Mr. Adnan Yousuf, Advocates.
For the Respondents	:	Mr. Sanjay Lao, Standing Counsel (Criminal) along with Ms. Priyam Agarwal, Advocate. Mr. Rakesh Kumar, Advocate for R-5.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANISH DAYAL

J U D G M E N T

SIDDHARTH MRIDUL, J. (OPEN COURT)

1. The present *habeas corpus* writ petition under Article 226 of the



Constitution of India, read with Section 482 of the Code of Criminal Procedure, has been instituted on behalf of Mr. Saleem Uddin, the petitioner *herein*, praying as follows:

'In light of the facts and circumstances of the case as enumerated above, it is most humbly prayed that this Hon'ble Court be most pleased to:

1. Issue a Writ of Habeas Corpus under Article 226 of the Constitution of India, 1949 or an order or direction in the nature of habeas corpus directing the Respondents to produce the son of the Petitioner, Mohd Huzaifa, and hand him over into the custody of the Petitioner.

2. And pass such other orders as may be necessary and in the interest of justice to protect the rights of the Petitioner.'

Brief facts of the Case:

2. Mr. Saleem Uddin, (*herein* referred to as petitioner) and Late Ms. Haira Parveen (*herein* referred to as mother of the child) were married in accordance with the procedure established by the Muslim personal laws **(Date of Marriage being 11.09.2011)**. Out of this wedlock, Master Huzaifa (*herein* referred to as child), was born on 30.06.2012.

3. On 09.10.2019, the mother of the child was severely burnt in a fire accident, and was rushed to the L.N.J.P Hospital; where an FIR got registered, being FIR No. 0149/2019, Police Station Hauz Qazi.



Unfortunately, the mother of the child succumbed to her injuries, and passed away on **12.10.2019**.

4. After the unfortunate incident, the petitioner being the sole natural guardian of the child, took care of the child with utmost love and affection, single handedly. It is pertinent to note that the child was studying in Madrasa Hifzul Quraan Chhoti Masjid (*herein* referred to as 'Madrasa'), a boarding educational institution, since 14.07.2019; and the petitioner paid the fees for the education of the child in a timely fashion and regularly visited him, as well.

5. However, on 24.03.2020, the petitioner was denied access to his child by the Madrasa, on the pretext that the Madrasa had received instructions from the maternal family of the child, to not let the petitioner meet with his child.

6. Thereafter, upon the announcement of the nation-wide lockdown during the COVID-19 pandemic, the petitioner contacted the Madrasa to receive the lawful custody of the child; but he was informed that Shah Jahan, the maternal aunt (*Khaala*) of the child/ respondent no. 5 *herein*, had taken the child away to her residence, in Seelampur, Delhi.

7. Since then, the petitioner had, on various occasions tried to meet



his child, and at last, sought an efficacious legal remedy, by way of the present *habeas corpus* writ petition, praying for a direction to respondent no. 5, to produce his son, and hand-over his custody to him.

8. We have heard learned counsel appearing on behalf of the parties, at length, on various occasions.

9. Ever since the filing of the present *habeas corpus* writ petition, this Court has permitted the petitioner, to visit and interact with his child, including through *video*-conferencing, on various occasions.

10. The parties had also been granted liberty to take counseling sessions, which was agreed upon by them, so as to resolve all of their underlying disputes. A counselor associated with Delhi State Legal Services Authority, was appointed for the said purpose, *vide* order dated **20.12.2021**.

11. Learned counsel appearing on behalf of the parties invite our attention to the **Settlement Agreement (page no. 221 of the writ petition paper-book)**, dated **17.08.2023**, arrived at between Mr. Saleem Uddin, the father of the child/the petitioner *herein* and Shah Jahan, the maternal aunt of the child/ respondent no. 5 *herein*, with the aid and assistance of Delhi High Court Mediation and Conciliation Centre, Delhi



High Court. The same is placed on the record, along with the **Mediation Report (page no. 219 of the writ petition paper-book)** dated **02.08.2023**.

12. For the sake of completeness, the **Settlement Agreement** dated **17.08.2023**, is extracted *herein below*, in extenso:-



**DELHI HIGH COURT MEDIATION AND CONCILIATION CENTRE
DELHI HIGH COURT, SHER SHAH ROAD, NEW DELHI**

Date: 17.08.2023

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into on 17.08.2023

BETWEEN

SALEEM UDDIN, S/O ALEEM UDDIN, R/O 2637 BALLIMARAN, CHANDNI CHOWK, DELHI-110006 (HEREINAFTER REFERRED TO AS THE FIRST PARTY)

AND

SHAHJAHAN, D/O ISRAR AHMED, R/O K-41, SEELAMPUR, NEW DELHI-110031 (HEREINAFTER REFERRED TO AS THE SECOND PARTY)

WHEREAS the First Party Saleem Uddin is the Father of minor child Huzefa and the Second Party Shahjahan is the Aunt of the minor child. Huzefa lost his mother Hazra Praveen on 12.10.2019. The child was put a Madrasa in 2019 prior to mother's demise. In 2020 the minor child Huzefa was taken out from the Hauz Rani Madrasa because of Covid, since then the minor child Huzefa has been living in care and comfort of Shahjahan the aunt of the minor child.



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AND WHEREAS the First Party after being denied of visitation rights reached to High Court, the said matter bearing W.P. (CRL.) 1385/2021 was referred to Delhi High Court Mediation & Conciliation Centre (**Samadhan**) vide Order dated 10.03.2023 passed by Hon'ble Division Bench comprising of Hon'ble Mr. Justice Siddharth Mridul and Hon'ble Mr. Justice Talwant Singh.

AND WHEREAS the parties agreed that Ms. Shalini Shishodia, Advocate would act as their Mediator in the present mediation proceedings.

AND WHEREAS mediation sessions conferencing were held on 17.03.2023, 22.03.2023, 24.04.2023, 26.04.2023, 12.05.2023, 24.05.2023, 29.05.2023, 31.05.2023, 06.06.2023, 08.06.2023, 14.07.2023, 19.01.2023, 26.07.2023, 31.07.2023, 01.08.2023 and 17.08.2023. The parties with the assistance of the Mediator and proactive participation of their respective counsel have voluntarily arrived at an amicable solution resolving the above mentioned disputes and differences once and for all.

AND WHEREAS the Parties have agreed upon the following terms and conditions:

1. The First Party after seeing the satisfactory growth and development of the minor child Huzefa has agreed that the minor child can continue to stay with his Khala Second Party i.e., Shahjahan.

Signature Not Verified

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By: DURGESH NANDAN
Signing Date: 16.09.2023
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2. The Second Party agrees to facilitate visitation once in 10 days, where the First Party will come to a mutually agreed place convenient to the child, and will get a chance to meet and interact with the child, the Second Party also agrees for occasional video calls.
3. The First Party agrees not to interfere in the decision regarding school/madarsa for the minor child the Second Party will have full autonomy regarding the same.
4. The Second Party agrees to foot any and all expenses pertaining to the child's education, upbringing, lodging and any other relevant expenses without any assistance from the First Party whatsoever. Further, the Second Party agrees to not solicit any such monetary assistance from the First Party from this point forward.
5. The First Party agrees to take health and education policy for the minor child, best to his capacity.
6. On special occasions like Eid and any other community festival the Second Party will facilitate meeting of the child with the father.
7. The Respondent No. 1, 2, 3, and 4 would be given a copy of settlement arrived by the First Party and the Second Party, for the information and necessary action, if any.
8. The parties agree that they shall withdraw any other complaint/case/litigation filed before any Court/Forum/Authority, by the either party against each other.

Signature Not Verified

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By: DURGESH NANDAN
Signing Date: 16.09.2023
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9. The parties to the present agreement have entered into the present agreement out of their own free will and volition without any pressure, force, coercion and / or undue influence of any nature whatsoever.
10. The Parties hereto state that they have no further claims, demands against each other as all the disputes and differences between the Parties have been amicably settled hereto through the process of mediation.

PARTIES' SIGNATURES

Saleem Uddin
(First Party)

Shahjahan
(Second Party)

COUNSEL SIGNATURES

Ms. Gayatri Dahiya, Enrl. No. D-590/2022
(Advocate for the Petitioner)

Shalini Shishodia
(Shalini Shishodia)
Mediator
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13. A perusal of the said Settlement Agreement reflects that both the parties have mutually agreed upon the terms and conditions specified *therein*.

14. A perusal of the abovementioned Settlement Agreement also reflects that the terms and conditions of the settlement arrived at, by and between the parties are legal and lawful; and the same be made the order of the Court. The Settlement Agreement is duly appended with the signatures of the parties; let the same be taken on record.

15. Accordingly we direct, that the parties shall remain bound by their reciprocal obligations, elaborated in the **Settlement Agreement**, dated **17.08.2023**, and shall comply with the said terms and conditions, without demur.

16. No further relief is prayed for.

17. In view of the foregoing, the present *habeas corpus* writ petition is allowed, in the agreed terms and conditions.

18. Needless to state, that in the event of any apprehension or difficulty faced in relation to the compliance with the said Settlement Agreement, the parties are at liberty to approach this Court, by way of an



appropriate application, in accordance with law.

19. With the above directions, the present *habeas corpus* writ petition is allowed; and disposed of accordingly.

20. Before parting with the order, we would like to record our deep appreciation towards the efforts made by Delhi High Court Mediation and Conciliation Centre, Delhi High Court, which led the parties to an amenable and peaceful settlement.

21. Copy of this judgment be uploaded on the website of this Court *forthwith*.

**SIDDHARTH MRIDUL
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

AUGUST 24, 2023
Aanchal

[Click here to check corrigendum, if any](#)