



2023:DHC:8066



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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 06.11.2023*****+ CM(M) 1619/2023 & CM APPL. 51190/2023****RAHUL MISHRA**

..... Petitioner

Through: Ms.Malavika Rajkotia,
Ms.Trisha Gupta, Advs. with
petitioner in person

versus

NEHA RAI

..... Respondent

Through: Ms.Geeta Luthra, Sr. Adv. with
Ms.Kamakshi Gupta and
Ms.Pragati Srivastava, Advs.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioner praying for the unsupervised and overnight physical visitation rights over the minor son once every week, and also for a direction with respect to the joint parenting plan which would enable the child to have access and involvement of both the parents till the learned Family Court decides the petitioner's Guardianship Petition, that is, G.P. No.20/2019.
2. The learned counsel for the petitioner submits that in spite of the direction issued by this Court in its order dated 23.05.2023 passed in CM(M) 871/2023, directing the learned Family Court to decide the interim application filed by the petitioner seeking visitation rights with the child within a period of 12 weeks of the said order, the same is yet



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to be decided.

3. She further places reliance on the judgment of the Supreme Court in *Yashita Sahu v. State of Rajasthan & Ors.*, (2020) 3 SCC 67, to submit that in the present case, the respondent has not pleaded any extreme circumstances due to which the petitioner should be denied the visitation rights. She submits that the petitioner has not had the access to the child since December, 2022. She submits that the respondent is using the child as a bargaining chip.

4. The learned senior counsel for the respondent denies the submissions of the learned counsel for the petitioner, however, does not oppose the prayer for an expeditious disposal of the interim application filed by the petitioner pending adjudication before the learned Family Court.

5. As is evident from the above, this Court vide its order dated 23.05.2023 passed in CM(M) 871/2023, has already taken note of the delay in adjudication of the interim application filed by the petitioner, and passed the following direction:

“6. Taking into account the fact that the guardianship petition has remained pending since 2019 and the petitioner's grievance that he is being deprived of physically meeting his child on a regular basis and that too despite he having moved an application under Section 12 of the Guardians and Wards Act, 1890, the petition is disposed of by directing the learned Family Court to decide, within twelve weeks, the petitioner's pending application as per law.”

6. The learned counsel for the petitioner has drawn my attention to various orders passed by the learned Family Court. It is noticed that



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the order on the interim application filed by the petitioner could not be passed as the learned Presiding Officer who was hearing the application has retired. The learned counsel for the petitioner submits that even on the date of the retirement, the 12 weeks' period had already expired.

7. I am informed that the application filed by the petitioner is now listed before the learned Family Court on 14.12.2023.

8. With the consent of the learned counsels for the parties, the next date of hearing before the learned Family Court is preponed to 09.11.2023.

9. The learned Family Court is directed to hear the application filed by the petitioner, expeditiously, and in any case, decide the same within a period of 12 weeks as per law.

10. During the course of such hearing, the learned Family Court shall also consider making interim arrangements of visitation of the petitioner with the child, while hearing of the main application may continue.

11. Needless to state, neither party shall seek any unwarranted adjournments before the learned Family Court nor such prayer be granted.

12. The petition is disposed of in the above terms. The pending application also stands disposed of.

NAVIN CHAWLA, J

NOVEMBER 6, 2023/Arya/am