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

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Date of decision: 13.04.2023

+ **LPA 603/2022 & CM Appls. 45591/2022 & 45593-95/2022**

RITU JOHARI

..... Appellant

versus

VINEET TANEJA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Appellant : Appellant-in-person

For the Respondents : Mr Prosenjeet Banerjee, Ms Shreya Singhal
and Ms Sudeshna Singh, Advs. for R-1
along with R-1 in person.
None for R-2 to R-5

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

TARA VITASTA GANJU, J.: (ORAL)

1. The present Appeal has been filed by the Appellant *inter-alia* challenging the order dated 22.03.2022 passed by the learned Single Judge in Cont. Cas(C) 908/2021 and Cont. Cas(C) 400/2021 [hereinafter referred as "the Impugned Order"].
2. Cont. Cas(C) 908/2021 was filed by the Appellant alleging that the Respondent No.1 had taken the minor child on 28.03.2021 into a Covid containment zone, thereby subjecting the child to the risk of Covid-19 while, Cas(C) 400/2021 was filed by Respondent No.1

alleging violation of visitation rights by the Appellant.

3. By the Impugned Order, the learned Single Judge had granted visitation to the Respondent No. 1 on the 1st and 3rd Saturday of every month from 10 AM to 6 PM on each visit, continuing the already existing orders for visitation passed *inter-alia* by the Family Courts at Saket Courts, New Delhi in the Guardianship Petition G.P. No.48 of 2012. It is against alleged violations made to these visitations rights that the Appellant approached this Court by way of challenge in Cont. Cas(C) 908/2021.
4. Pursuant to our interactions in Chamber with the parties and the minor child and after reviewing the contents of Application bearing CM Appl. 872 of 2023, this Court had by its order dated 03.02.2023 appointed Counsellor(s) to interact with the minor child.
 - 4.1 After detailed interactions with the minor child and both Appellant and Respondent No. 1, the Counsellor(s) submitted an interim report dated 20.02.2023 and their final/detailed report in the matter on 25.03.2023 [hereinafter collectively referred as “the Reports”]. A copy of the Reports was shown to the parties on 27.03.2023.
 - 4.2 A perusal of the Reports show that the Counsellor(s) had detailed meetings and interactions with the family and especially the minor child, pursuant to which they have given their conclusion(s) in the final/detailed report. The Counsellor(s) have noted that the minor child’s academic and social environment has been nurturing and has instilled in her a sense of identity and confidence. The Counsellor(s) have found in their professional expertise, that the criteria for ‘Parental Alienation Syndrome’ or ‘Factitious Disorder’ are not met.

The Counsellor(s) have *inter-alia* stated that the minor child has faced acute and overwhelming distress due to the traumatic incident (referred to in CM Appl no. 872 of 2023) and the same has affected her emotional wellbeing. The Counsellor(s) have strongly recommended that the minor child does not continue her visitations with her father for now and also that she be provided with safe and neutral therapeutic counselling to cope with the traumatic experiences.

5. During the hearing on 27.03.2023, we were informed that the Respondent No.1 had assailed order dated 03.02.2023 passed by this Court, by way of Special Leave Petition (Civil) [SLP(C)] No. 3667 of 2023.
- 5.1 In pursuance of order dated 24.03.2023 passed by the Supreme Court, the Registry of this Court was directed to ensure that the Reports are placed before the Supreme Court.
6. Today, we are informed by learned counsel for the Respondent No.1 that the SLP filed by the Respondent No.1, was dismissed on 28.03.2023.
7. The Appellant, who appears in person, also submits that in the meantime, the Guardianship Petition i.e., G.P. No.48 of 2012 filed by the Respondent No.1 for custody of the minor child [hereinafter referred as "Guardianship Petition"] was heard and a final judgement was rendered by the Family Court on 05.04.2023 [hereinafter referred as "the judgement "]. A hard copy of the judgement has been placed before us today. One copy of the judgement has also been handed over to counsel for Respondent No.1.

8. The said judgement sets forth that the Appellant [Respondent in the Guardianship Petition] had filed an application to seek an adjournment on 05.04.2023 to enable the Family Court to review the contents of the Reports prior to passing the judgment in the Guardianship Petition. It was submitted by the Appellant that since this Court had by its order dated 27.03.2023 directed that the contents of the Reports be kept confidential, the Appellant was required to seek permission from this Court, prior to filing the Reports before the Family Court.
- 8.1 Evidently, Respondent No.1 [Petitioner in the Guardianship Petition] had, however, opposed the adjournment. Hence, the learned Family Court proceeded to pass the judgment in the Guardianship Petition on 05.04.2023 without reviewing the Reports.
9. Learned Counsel for Respondent No.1 submits that Respondent No.1 will be assailing the judgement in the Guardianship Petition.
- 9.1 The Appellant also submits that since, the Reports have not been taken into consideration by the Family Court while deciding the Guardianship Petition, she will also assail the judgment.
10. Learned Counsel for Respondent No. 1 submits that since the Family Court has ruled on the issue of Guardianship and visitation, this Appeal can be disposed of with an undertaking of Respondent No.1 that he will not enforce the orders impugned in the appeal, which would not only enable parties to exercise their respective rights, if any, in accordance with the judgement rendered by the learned Family Court Judge but also allow them to seek legal recourse qua the said judgment.

11. As mentioned hereinabove, the present Appeal emanates from a challenge made by the Appellant to an order passed by learned Single Judge in Contempt Petition(s), alleging violation of interim orders regarding visitation passed by the Family Court. The learned Single Judge by the Impugned Order had continued the visitation rights already granted by the Family Court, which formed the subject of the present Appeal. The issue concerning custody and visitation has now been finally adjudicated by the Family Court.
12. Given these circumstances, this Appeal is, disposed of with the following directions:
 - (i) The visitation rights as accorded to the Respondent No. 1 which were kept in abeyance by this Court by its order dated 03.02.2023, shall continue to remain suspended for six [6] weeks commencing from the date of the instant judgment.
 - (ii) The Appellant and Respondent No.1 may produce/file the interim report dated 20.02.2023 and/or the final/detailed report dated 25.03.2023 given by the Counsellor(s) appointed by this Court, if required, in any legal proceedings or before any authority, provided the Reports are placed in a sealed envelope, so as to protect the interest of the child.
 - (iii) The Registry shall supply copies of the Reports to the Appellant and Respondent No. 1, upon a written application made in this behalf.
13. Needless to state, this Court has not given its view on the merits of the disputes obtaining between the parties, which will be adjudicated by the appropriate forum. All rights and contentions of the parties in this regard are left open.

14. Given the aforesaid, all pending applications shall stand closed.
15. The parties will act based on the digitally signed copy of the order.

**(TARA VITASTA GANJU)
JUDGE**

**(RAJIV SHAKDHER)
JUDGE**

APRIL 13, 2022 /r

