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

+ **CM(M) 100/2024, CM APPL. 2853/2024**

ZAIBI HUSSAIN

..... Petitioner

Through: Mr. M. Tarique Siddique along with
Mr. Fajallu Rehman and Mr. Mohd.
Bilal, Advocates.

versus

JAMAL TARIQ

..... Respondent

Through: Mohd. Yasin, Mr. Yashvardhan Oza,
Mr. Sami Ahmed and MS. Iram Jan,
Advts.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **16.01.2024**

CM APPL. 2854/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 100/2024, CM APPL. 2853/2024

3. The present petition under Article 227 of the Constitution of India has been filed invoking the power of superintendence against non-compliance of order dated 20.10.2023 by learned Judge, Family Court-02, South-East, Saket. It is vociferously submitted that the application filed on 31.01.2022 by the petitioner herein seeking interim custody of the minor child is pending for disposal before the learned Judge, Family Court since the above mentioned date and various adjournments have been granted but the application has not been disposed of. Aggrieved by this position, the petitioner had filed a CM(M) 1736 /2023 which was disposed of by this court vide order dated 20.10.2023 wherein following directions were passed:



- a) “Guardianship Petition will be listed before the learned Family Court on 02.11.2023;
- b) The learned counsel for the petitioner is directed to inform the respondent, as also his counsel representing the respondent before the learned Family Court, of the change of the next date of hearing before the learned Family Court in the Guardianship Petition;
- c) The learned Family Court shall seek the clarification as is required from the parties on the said date and then proceed to pronounce its order on the preliminary issue of jurisdiction;
- d) In case the learned Family Court comes to a conclusion that it has the jurisdiction to adjudicate upon the Guardianship Petition, it shall proceed to hear the arguments on an application filed by the petitioner under Section 12 of the GW Act and shall dispose of the same on merits at least for the interim orders, after hearing arguments advanced by the learned counsels for the parties, within a period of one month therefrom.
- e) The learned Family Court shall not grant any unwarranted adjournments to either of the parties.”

4. To further dwell on the arguments, the learned counsel has placed reliance upon judgment in Mat. App. (F.C.) 127/2023 titled “*Smt. K. S. Sumi Mol vs. Sh. Suresh Kumar E.K*” and submitted that the Division Bench of this Court has framed guidelines to be followed by all Family Courts in Delhi for the disposal of the petitions but the learned Family Court, South-East district has failed to follow the directions.

5. It is submitted on behalf of the respondent that disposal of the interim application of the petitioner has been delayed as the petitioner had moved an application challenging the jurisdiction of the Family Court, South district which was decided by order dated 25.11.2023 and the directions of this Court in CM(M) 1736/2023 have been diligently complied with. It is further submitted that the matter is listed before the learned Judge, Family Court on 20.01.2024 for arguments on this application. Therefore, the petition is not maintainable.



6. The main grievance of the petitioner is that despite various directions, his application seeking interim custody of the minor child filed on 31.01.2022 is not being disposed which needs to be urgently adjudicated upon. The petitioner has prayed as follows:

- “(i) Call and examine the record and the orders passed by Ld. Family Court-02, South-East, Saket in guardianship petition dated 31.01.2022 u/s 25 of Guardians & Wards Act, 1890 being GP No. 56/2022 titled as Zaibi Hussain v. Jamal Tariq seeking return of custody of her minor son Muhammad Abu Bakr; and satisfy itself as to the regularity of such proceedings and dispose the petition expeditiously. and/or;
- (ii) Exercise superintendence power conferred upon this Hon'ble Court under Article 227 of the Constitution of India against non-compliance by Ld. Judge, Family Court-02, South-East, Saket of order dated 20.10.2023 passed by this Hon'ble High Court in CM(M) I736/2023 and/or;
- (iii) Direct the Ld. Judge, Family Court-02, South-East, Saket to decide application dated 31.01.2022 of petitioner/ natural & biological mother u/s 12 of Guardians & Wards Act, 1890 seeking interim custody of her minor son Muhammad Abu Bakr without any further adjournment. and/or in alternate;
- (iv) Decide the application dated 31.01.2022 under section 12 of the Guardians & Wards Act, 1890 in GP No. 56/2022 and grant interim custody of minor son Muhammad Abu Bakr to the petitioner/ natural and biological mother.
- (v) Pass such order or orders as this Hon'ble Court deems fit and proper on the facts and circumstances of the case.”

7. It is significant to note that the Family Courts Act, 1984 was introduced with the object to secure speedy settlement of disputes relating to marriage and family affairs and for matters connected therewith including the custody of any minor and has further simplified the procedure so as to enable the Family Court to deal effectively with such disputes.

Section 10(3) of Act further empowers the Family Court for laying down its own procedure “with a view to arrive at settlement in respect of the subject matters of the suit or proceedings or at the truth of the facts alleged by one party and denied by the other.”



8. From time to time directions and guidelines have been issued by way of judicial pronouncements for quick disposal not only of the petitions relating to family matters but also the interim applications filed therein.
9. It is disappointing to note that the interim application seeking custody of minor child is pending for disposal before the learned Family Court, South-East, Saket Court, since 30.01.2022.
10. In view of the above following directions are passed:
 - a. The learned Judge Family Court-02, South-East, Saket Court, New Delhi to hear the arguments of parties on 20.01.2024 and to dispose of the application expeditiously.
 - b. The learned Judge, Family Court shall not grant any adjournment to any of the parties on 20.01.2024 for addressing arguments on the application.
11. Petition along with pending applications stands disposed of with the aforesaid directions.

SHALINDER KAUR, J

JANUARY 16, 2024/SDS