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

+ **CM(M) 2017/2024**

SATISH KUMAR

..... Petitioner

Through: Mr.Medhanshu Tripathi & Mr.Harish
Sharma, Advs.

versus

PREETI

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **04.03.2024**

CM APPL. 13217/2024(exemption)

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

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3. The present petition has been filed under Article 227 of the Constitution of India read with Section 151 Code of Civil Procedure, 1908 (hereinafter referred as 'CPC') seeking appropriate directions for the learned Judge Family Court to ensure visitation rights of the petitioner with the minor child and to set aside the order dated 03.02.2024 passed by learned Family Court, South, Saket, New Delhi in GP No.49/2022 titled as "Satish Kumar vs. Preeti".

4. On 27.10.2022, petitioner filed the Guardianship Petition along with application for interim custody before the learned Judge Family Court, Saket. Subsequently, on 23.11.2022, petitioner moved an application under Section 12 of the Juvenile Justice Act, 2015 along with a second application for visitation rights to meet his daughter. On 23.02.2023, learned Judge



Family Court granted visitation rights to the petitioner on any Sunday at respondent's matrimonial home in Rohtak.

5. Learned counsel for the petitioner submits that order passed by the learned Family Court on 03.02.2024 is contrary to the directions passed by this Court on 20.12.2023 in CM(M) No.2118/2023 for early disposal of GP No.49/2022 titled as “*Satish Kumar v. Preeti*” whereby learned Judge Family Court was directed as under:

“not to grant any unwarranted adjournment in the guardianship petition pending before it on 20.01.2024, to first ensure that the child is produced before the court, and further upon hearing the parties, to ensure at least some minimal visitation of the petitioner with the child before proceeding further with consideration of the application filed by the respondent under Order VII Rule 11 of the CPC.”

6. Learned counsel submits that the visitation with the child could not happen due to the reasons recorded by the learned Family Court in the said order as the child was not willing to meet with the petitioner/father on the said date of hearing. Moreover, the learned Judge Family Court did not consider disposing off the application moved on behalf of the petitioner under Section 151 CPC seeking appointment of child psychologist in the present case.

7. Learned counsel for the petitioner further submits that this is a case of parent alienation as the child is deprived of her father's presence. Further the application with respect to appointment of child psychologist is to be decided first and the position of law has accordingly been settled in such like cases.

8. The impugned order dated 03.02.2024 perused wherein the learned



Judge Family Court has recorded the proceedings which are as under:

“In terms of directions passed on last date of hearing, respondent has come to the court alongwith the minor daughter named Ms. Neelakshi aged about 10 years and studying in class Vth. The child has absolutely refused to meet the petitioner / father. Even at the insistence of the court, the child is totally averse to even talk to her father / petitioner.

I have interacted with the child in my chamber also. She appears to be sensible and grown up to make a choice as to the parent with whom she wants to live. As soon as I asked the child to meet with the father / petitioner at least once, she started crying and has quoted instances of cruelty committed by father/petitioner upon her as well as her mother /respondent. Be that as it may, considering the fact that the child is absolutely uncomfortable and unwilling to even see her father / petitioner, I do not deem it appropriate to force the child to meet her father / petitioner.

Accordingly, no order for visitation can be passed.”

9. Learned counsel, at this stage, submits that the application seeking interim visitation rights under Section 12 of Guardianship Wards Act, 1980 is pending disposal along with an application for appointment of child psychologist both of which are to be decided. He further submits that though notice to the application for appointment of child psychologist has been issued to the respondent/mother, however, no reply has been filed.

10. Having considered the above submissions, learned Family Court is directed to first dispose of the application moved under Section 151 CPC seeking appointment of child psychologist within a period of one month from today as per law.

11. With the aforesaid directions, petition stands disposed of.

SHALINDER KAUR, J.

MARCH 04, 2024/ab