



2024:DHC:5696-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 25.07.2024

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MAT.APP.(F.C.) 96/2024 & CAV 149/2024, CM 18221/2024**SHILPA SOOD****.....Appellant**

Through: Mr Rishi Manchanda, Adv. along
with appellant in person

versus

VIVEK MALHOTRA**.....Respondent**

Through: Mr Prosenjeet Banerjee, Mr Vikrant
Kumar, Mr Sarthak Bhardwaj and
Ms Anshika Sharma, Advs. with
respondent in person

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL)****CAV 149/2024**

1. Since learned counsel for the respondent has entered appearance in the matter, the caveat stands discharged.

MAT.APP.(F.C.) 96/2024 & CM 18221/2024 *[Application filed on behalf of appellant seeking interim relief]*

2. This matter had come up for hearing on 22.03.2024. On that date, we had, broadly, etched out the contours of the grievance articulated on behalf of the appellant/mother. The relevant parts of the order dated 22.03.2024 are

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extracted hereafter:

“2. This appeal is directed against the order dated 09.02.2024 passed by the learned Judge, Family Court, North-West, Rohini, Delhi.

3. Via the impugned order, the learned Judge has directed the appellant/mother to produce the minor child before the Child Psychologist attached to the Ganga Ram Hospital, Delhi on 24.02.2023 [at 12:30 pm] for an unsupervised interaction with the respondent/father.

4. Mr Rishi Manchanda, learned counsel, who appears on behalf of the appellant/mother, says that repeated visits to a Child Psychologist are not in the interest of the child.

5. We are told that the child is about four and a half years old.

6. The record shows that the parties were referred to a Court counsellor on 09.06.2023 to facilitate supervised interaction between the respondent/father and the minor child. The location chosen for the interaction was the Children’s Room, Family Court, North-West.

6.1 The Court counsellor report dated 19.09.2023, inter alia, adverts to the fact that the child is comfortable interacting with the respondent/father only in the presence of the appellant/mother.

7. Evidently, thereafter the learned Judge referred the matter to a Child Psychologist at All India Institute of Medical Sciences, Delhi [in short, “AIIMS”]. Via a report dated 12.12.2023, the Child Psychologist, at the Department of Psychiatry, AIIMS, New Delhi, has opined that while initially, the child was not comfortable with the respondent/father, the child became slightly more comfortable in later sessions. Furthermore, the Child Psychologist also noted the following:

“Child was very clingy to his mother and mother also showed a very protective attitude towards him as she was not willing to leave him alone in the room. Therefore, an individual session with or unsupervised access to the child could not happen.”

[Emphasis is ours]

8. The sum and substance of these two reports is:

(i) First, the child is comfortable, at the moment, interacting with the respondent/father, as long as the appellant/mother is present.



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(ii) *Second, the child's comfortable level, in his interactions with the respondent/father was improving progressively.*

9. *Therefore, prima facie, it appears that unsupervised access to the child at Ganga Ram Hospital, at present, may not be in his best interest. However, as time passes the child may get to a stage where he would be comfortable interacting with the respondent/father without anyone else being around. A third assessment by a Child Psychologist in Ganga Ram Hospital may not be in the best interest of the child, at least, at this juncture.*

10. *However, since we do not have the response of the respondent/father we are inclined to issue notice.*

10.1 *It is ordered accordingly.*

10.2 *Notice shall issue to the respondent/father via all modes, including e-mail.*

11. *For the moment, the direction to produce the child before the Child Psychologist Dr. Roma Kumar at Ganga Ram Hospital shall be kept in abeyance.*

12. *At this stage, we may note that the appellant/mother was required to produce the child before Dr. Roma Kumar on 24.02.2024. Mr Manchanda concedes that the child was not presented before Dr Kumar.*

13. *This is not necessarily the best course adopted by the appellant/mother.*

13.1 *The appellant/mother should have taken recourse to an appropriate remedy before the date indicated in the impugned order.*

14. *However, since the interest of the child is involved, we are inclined to let the infraction pass.*

15. *In the interregnum, the respondent/father will have visitation rights as per directions contained in the order dated 30.08.2022."*

3. Upon return of notice, Mr Prosenjeet Banerjee, enters appearance on

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behalf of the respondent. Mr Banerjee informs us that the application filed by the respondent seeking overnight access is pending adjudication before the Family Court.

4. Mr Banerjee has also drawn our attention to an order dated 30.05.2023 passed by the then-constituted coordinate bench in MAT. APP. (F.C.) 130/2023 [see running page 27] setting aside the order of the Family Court dated 03.02.2023 granting the respondent/father overnight access to the minor child on the 1st Saturday of every month.

4.1 It is Mr Banerjee's submission that the matter was referred to a Child Psychologist attached to the All India Institute of Medical Sciences [AIIMS] after the matter was remitted to the Family Court.

4.2 A hard copy of the report has been handed over to us by the counsel for the parties.

5. We have perused the report.

6. According to us (and something counsel for the parties also agree), the learned Family Court Judge will decide the pending application having regard to the input received from the Child Psychologist, AIIMS, *via* the report dated 16.11.2023.

7. Consequently, the appeal is disposed of in aforesaid terms.

8. The impugned order, whereby the learned Family Court Judge directed the child to be produced before the Child Psychologist (attached to Sir Ganga Ram Hospital) is set aside.

9. The application, as indicated above, will be decided having regard to
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the input received from the Child Psychologist, AIIMS.

10. Needless to add, the observations made above will not impact the decision in the pending application.

11. Consequently, the pending application shall stand closed.

**RAJIV SHAKDHER
(JUDGE)**

**AMIT BANSAL
(JUDGE)**

JULY 25, 2024

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