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

+ **MAT.APP.(F.C.) 108/2022**

X

..... Appellant

Through: Mr Pradeep Narula with Ms Ayushi and
Mr Deepak Baisoya, Advocates along
with appellant in person.

Versus

Y & ANR.

..... Respondents

Through: Ms Somyashree, Advocate along with
Dr. M. Jeeva Sankar in person.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE AMIT BANSAL

ORDER

28.03.2024

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

1. This appeal is directed against the order dated 06.05.2022 [hereinafter referred to as the “impugned order”] passed by the learned Principal Judge, Family Court, South District, Saket Court, New Delhi.

2. Via the impugned order, the learned Principal Judge disposed of the application preferred by respondent no. 1/ father under Section 26 of the Hindu Marriage Act, 1955.

2.1 The operative directions issued by the learned Principal Judge are contained in paragraph 12 of the impugned order. For convenience, the relevant part is

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extracted hereafter:

“....I allow the application of the petition and grant custody of the child to petitioner. The petitioner himself is a doctor and can provide all the needs of the child. However, the petitioner shall take the child to her mother’s house in Sarvapriya Vihar (of any other place in Delhi where respondent no.1 may shift) on each Saturday at 11.00 am and then bring back the child on Sunday at 5.00 pm. Apart from it, respondent no.1 may have an interaction with the child over video call every day between 6.00 pm to 7.00 pm. It is made clear that these directions may be modified in event of change of circumstances. In case child becomes ill, father will inform the mother about his illness and arrange the video call between mother and child.”

3. Pursuant to the order dated 02.02.2024 passed by this Court, we have received a report dated 27.03.2024 prepared by Dr. Deepak Gupta, Child Psychologist, Founder-Director, ‘Centre for Child and Adolescent Well Being.’ The said report was received in a sealed envelope. The envelope was unsealed in Court and the report was placed before us. After perusing the report, we shared the opinion rendered by Dr Gupta with the parties who are physically present in court.

3.1 Having regard to the privacy concerns of the parties and the child, we have refrained from extracting the contents of the report.

4. The parties, both of whom are doctors, have mutually decided that they will, in the spirit of shared-parenthood, enjoy the company of the child in the following manner, commencing from April, 2024.

(i) During first three (03) weekends of the month, the child will remain under the charge of the appellant/mother. The child will be handed over to the

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appellant/mother on Friday, at 05.00 P.M. On the first day of the following week, i.e. Monday, the appellant/mother will ensure that the child is sent to school. In case Monday happens to be a school holiday, the child will be returned to the residence of respondent no.1/ father.

(ii) In the fourth weekend of the month, the child will remain in the charge of respondent no.1/father, beginning from Thursday evening. The child will be sent to school by the appellant/mother on Thursday morning. In case Thursday happens to be a school holiday, the child will be handed over to the respondent/father at about 05.00 P.M.

(iii) Therefore, in the fourth week of the month, the child will remain in the charge of the appellant/mother from Monday 06.00 P.M. till early hours of Thursday when he leaves for school, unless it happens to be a holiday. The child will travel by school bus to reach the house of respondent no.1/father.

5. As far as vacations are concerned, the parties have agreed that they would share the custody of the child by dividing the period involved between themselves, *albeit* equally. Since both parties are, as indicated above, professionals [i.e., Doctors], they will mutually arrive at an agreement, having regard to their professional commitments, as to the period during which one of them would have custody of the child.

6. The impugned order is modified to the extent indicated above.

7. The parties and their respective counsel submit that the appeal can be disposed of in the aforesaid terms.



7.1 It is ordered accordingly.

8. Needless to add, the parties will bear in mind the welfare of the child and his desire to keep the communication channel open with both parents. Therefore, normal communication through phone shall not be denied by the parent having custody of the child. The non-custodial parent will, however, refrain from making unnecessary telephone calls which have the tendency of eating into the custodial-parent's allocated time with the child.

9. The Registry is directed to keep the report in a sealed envelope, to be opened on the direction of the court.

10. Copies of the report have been handed over to the parties. We hope and trust that the parties do not misutilise the report.

11. The Registry is directed to upload the order passed on its website only after pixelating the names of the parties.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MARCH 28, 2024/tr

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