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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 1041/2024

DAVENDER

.....Petitioner

Through: Mr.Suraj Bhan, Special Attorney.

versus

PARNEETA @ DOLLY

.....Respondent

Through: Mr.Bhupesh Saini with Mr.Ravinder
S Sharma, Mr.Narender Singh, Ms.Priya Kashyap,
Advts.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

03.12.2024

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1. The present contempt petition has been filed with a grievance that the respondent has not been complying with the order dated 02.08.2023 as even though the child is being brought to the petitioner's residence at Noida between 10:00 am and 10:30 a.m. on Sunday, he is being taken back within two to three hours itself.
2. Learned counsel for the respondent, on instructions from the respondent, who is present in Court, opposes the petition and submits that since, on account of his job, the petitioner himself is presently not residing in Noida/Delhi and is serving in West Bengal, the child does not wish to spend time at his house in Noida without him being there. He contends that in these circumstances the respondent cannot be said to be guilty of violating orders passed by the learned Family Court. He, therefore, prays that the petition be dismissed.



3. In view of this stand taken by the respondent, we have put to learned counsel for the petitioner as to whether the petitioner is presently available in the NCR. He submits that the petitioner is posted as Vice Principal in Kendriya Vidyalaya No.2 Ishapore, West Bengal since October, 2023. He, however, contends that at least for the period between 02.08.2023 till October, 2023, the respondent should have complied with the directions issued vide order dated 02.08.2023 and, therefore, prays that contempt proceedings be initiated against the respondent.
4. Having given our thoughtful consideration to the rival submissions of the parties, we are of the view that in the light of this admitted position that the petitioner is not residing in Noida since October, 2023, having been transferred to Kendriya Vidyalaya No.2 Ishapore, West Bengal, no ground is made out for initiating any contempt proceedings against the respondent. When the petitioner himself is not present in Delhi/Noida, the respondent cannot be faulted for not producing the child for interaction with him at his residence in Noida.
5. We, accordingly, dismiss the contempt petition with liberty to the petitioner to move a similar petition, if the need so arises after the petitioner is transferred back to NCR.

REKHA PALLI, J

SAURABH BANERJEE, J

DECEMBER 3, 2024

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