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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 3618/2024

RAKHI

.....Petitioner

Through: Mr. Rohit Singh, Mr. Sujit Kumar, Mr. Mohit Saini, Mr. Prince Dubey, Mr. Vikram Singh Nayal, Ms. Kanika Saini, Mr. Nitish Nagar & Mr. Pratul Yadav. (M: 9643633336) with Petitioner in person.

versus

THE STATE OF NCT OF DELHI & ORS.Respondents

Through: Ms. Priyam Aggarwal & Mr. Abhinav Kumar Arya, Advs. for Mr. Sanjay Lao, Standing Counsel (Crml.) with Ms. Priyam Aggarwal & Mr. Abhinav Arya, Advs., SC (Cr.).
Mr. Shannu Baghel and Ms. Anuradha Kaushik, Advs. for R4 to 6 with R-4 Chetan Sharma.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

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12.12.2024

1. This hearing has been done through hybrid mode.
2. The present petition has been filed under Article 226 of the Constitution of India read with Section 528 of BNSS, seeking issuance of a writ in the nature of *habeas corpus* for production of the minor child of the Petitioner, aged about 2 years. The Respondent No. 4 is the father of the child.
3. On 28th November, 2024, considering the facts of the case the Court had directed the parties to participate in the mediation process before the Delhi High Court Mediation and Conciliation Centre for attempting to amicably resolve their disputes. The concerned Mediator was directed to file a report



by the next date of hearing. The relevant portion of the order dated 28th November, 2024, is reproduced hereinbelow:

“4. It is not in dispute that the child has been residing with the father and the grandparents since inception. However, since the Petitioner is the mother and there is matrimonial discord between parties, it is deemed appropriate to direct that the Petitioner, Respondent No. 4 (her husband), the child and any other family members to participate in a mediation process for attempting to amicably resolve their disputes before the Delhi High Court Mediation and Conciliation Centre. Accordingly, the parties to appear tomorrow before the Delhi High Court Mediation and Conciliation Centre. The child shall also be produced and the mother- Petitioner is permitted to spend some time with her child.

5. The Delhi High Court Mediation and Conciliation Centre shall appoint a Senior Mediator/s who has expertise in dealing with matrimonial disputes.

6. The Id. Mediator/s may also continue to direct the production of the child while the mediation is pending before the Delhi High Court Mediation and Conciliation Centre on subsequent dates of hearing for meeting the mother.

7. Let the mediation proceedings be attended by the parties and a report be filed by the Id. Mediator by the next date of hearing. The child shall be allowed to interact with the Petitioner at least for one hour either before or after the mediation proceedings.

8. Both the parties shall ensure that no unruly behaviour is resorted to by them and they shall maintain peace and tranquility during mediation proceedings and while meeting the child before the Mediation Centre.”

4. The concerned Mediator has filed a report dated 6th December, 2024.



As per the said report, the mediation process has been unsuccessful.

5. The child is stated to be living with the father, the grandparents and great grandfather, in the house where he was born. The Petitioner/mother is seeking custody of the child which would not be possible in a habeas corpus petition.

6. Since, the Petitioner/mother wishes to meet the child, let the child be produced in the Delhi High Court Mediation and Conciliation Centre every working Saturday from 11:00 a.m. to 1:00 p.m. during which period the Petitioner/mother shall be permitted to meet and spend time with the child.

7. If any particular Saturday is a non-working Saturday for the mediation centre, then the said meeting shall happen on the previous day i.e., Friday from 3:00 p.m. to 5:00 p.m.

8. Apart from this, if the Petitioner/mother wishes to seek any other remedies in respect of the custody of the child, she is free to avail of her remedies in accordance with law.

9. In addition, the Petitioner/mother can have video calls with the child twice a week and she shall coordinate with the husband for the same. The husband shall cooperate for the child to have video calls with his mother.

10. It is made clear that either of the parties shall not misbehave with each other or engage in any abusive behaviour.

11. The petition is disposed of in these terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

DECEMBER 12, 2024/dj/ms/pr