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

+ **W.P.(C) 16534/2024**

VIVEK MALHOTRA

.....Petitioner

Through: Petitioner in person.

versus

SHILPA SOOD & ORS.

.....Respondents

Through: Ms. Mehak Nakra, ASC with Ms. Gunjan Suyal and Mr. Aditya Goyal, Advocates for GNCTD.
Ms. Pratima N. Lakra, CGSC with Mr. Chandan Prajapati, Advocate for R-2 & 4.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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29.11.2024

1. Mr. Vivek Malhotra, appearing in person, has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950, seeking following prayers:

- "A. ***Issue directions to Respondent No.2 (SHO, Shalimar Bagh) to provide protection and assistance to the petitioner in ensuring future compliance of the child access orders granted vide order dated 30.08.22 and 23.09.24.***
- B. ***Issue directions to Respondent No.1 to restore access between the petitioner and the child within next 24-48 hours.***
- C. ***Issue directions prohibiting Respondent No.1 from unilaterally denying access between the petitioner and the minor child, under any circumstances whatsoever, without prior approval of the court, and impose exemplary penalties for any future non-compliance.***
- D. ***Issue directions to the Hon'ble Family Court, Northwest, Rohini in EX CIVIL 34/2024 (arising from the order dated 23.09.24 in GP/64/21, pending before the Family Court) to restore access***

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between the petitioner and the minor child, preferably within the next 24 to 48 hours.

OR

Issue directions to the Hon'ble Single Judge Bench of the High Court in CONT. CAS. (C) 1786/24 and 1788/2024 (arising from the orders dated 23.09.24 and 30.08.22 granting child access in GP/64/21, respectively) to facilitate the immediate restoration of access between the petitioner and the child, preferably within the next 24-48 hours.

E. Issue an appropriate writ/order directing Respondents No. 3 and 4 to submit a time bound proposal to safeguard the primordial human rights and fundamental rights U/A 21 of the children caught in matrimonial crossfire and of non-custodial parents so as to ensure creation, protection, and nurturing of the parent-child bond with iron hand of law."

2. There is a matrimonial dispute between Petitioner and Respondent No. 1. Legal proceedings between them are pending before the Family Court, North-West, Rohini. By orders dated 30th August, 2022 and 23rd September, 2024, the Family Court has granted the Petitioner visitation rights to the minor child. The Petitioner alleges that Respondent No. 1 is not honouring the terms of the visitation orders, thereby depriving him of access to the child. In this regard, the Petitioner has already invoked the contempt jurisdiction of this Court by filing contempt case No. 1785/2024 wherein notices have been issued to the Respondents. Additionally, the Petitioner has filed Execution (Civil) No. 34/2024 seeking execution of order dated 23rd September, 2024.

3. In the above background, finding no effective resolution to his grievances, the Petitioner has invoked writ jurisdiction of this Court, alleging violation of his fundamental rights. Upon careful consideration of the facts and circumstances, this Court finds no compelling reason to entertain the present petition under Article 226 of the Constitution of India. The Petitioner has already availed himself of adequate legal remedies by



initiating proceedings before the competent forums specifically designated to adjudicate matters relating to child custody and visitation rights. The issues raised herein are squarely covered within the purview of the Family Courts and the contempt jurisdiction already invoked. The existing legislative framework governing custody and guardianship provides a comprehensive mechanism to address disputes concerning the welfare of minor children. The Family Courts Act, 1984, was enacted to facilitate prompt resolution of family disputes, with an emphasis on securing speedy settlement of disputes relating to marriage and family affairs and matters connected therewith. These specialized courts are equipped with the necessary expertise and sensitivity to handle such delicate matters.

4. It is a well-established principle that the extraordinary writ jurisdiction of the High Courts should be exercised sparingly, particularly when efficacious alternative remedies exist. The Petitioner has not demonstrated any exceptional circumstances or manifest injustice that would warrant the bypassing of statutory remedies and invocation of writ jurisdiction. The Family Court is best positioned to assess and enforce compliance with its orders and the contempt proceedings already initiated by the Petitioner provide an appropriate avenue to address any wilful disobedience by Respondent Nos. 1. The Petitioner is effectively seeking this Court to function as a court of first instance in matters that are already under the active consideration of the Family Court and in contempt proceedings before this Court.

5. Considering these aspects, the Court is of the view that the statutory remedies available to the Petitioner are adequate and appropriate for the resolution of the dispute. Interference by this Court could inadvertently



complicate matters further and detract from the child's welfare.

6. Accordingly, the petition is devoid of merit and is dismissed.

SANJEEV NARULA, J

NOVEMBER 29, 2024

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