



\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 394/2025**

ZEESHAN AHMED

.....Petitioner

Through: Mr. Bilal Anwar Khan and Ms.
Anshu Kapoor, Advocates with
petitioner in person

versus

STATE (NCT OF DELHI) & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Ms. Priyam Aggarwal,
Mr. Abhinav Kr. Arya and Mr. Aryan
Sachdeva, Advocates for State
Insp. Manoj Kumar, SHO, PS Hauz
Qazi with SI Shri Narayan and ASI
Surender
Insp. Ravinder Singh, SI Akshay
Dagar, PS Shaheen Bagh
Ms. Azra Rehman, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

27.03.2025

%

CRL.M.A. 9384/2025

1. The instant application under Section 151 of the Code of Civil Procedure, 1908 has been filed by the applicant/respondent no.2 seeking the following reliefs:

“a) Partially Modify the interim order dated 10th February 2025 passed in W.P. (Crl.) No. 394/2025 in light of the changed circumstances due to the pronouncement of Talaq by the Petitioner/Husband, and issue fresh directions regarding



visitation rights of the Petitioner/Father as proposed in Paragraph 8 above or as this Hon'ble Court deems fit;

b) Correct the typographical error in the order, replacing the word "Dadi" with "Nani" to accurately reflect the child's comfort and residence

c) Direct the termination of mediation proceedings pending before the Delhi High Court Mediation and Conciliation Centre, as the same have been rendered infructuous;

d. To pass such other and further orders and grant such other and further relief as your Lordships, may deem fit, and proper in the circumstances of the Case."

2. Learned counsel for the applicant submitted that the instant writ petition under Article 226 of the Constitution of India was filed by petitioner/father in the nature of a *habeas corpus* petition, seeking production of his minor son, who is 1 year and 8 months old. The said petition was disposed of by the Predecessor Bench of this Court *vide* consent order dated 10th February, 2025 with the following directions:

"7. ...(i) The parties shall appear before a Ld. Mediator at the Delhi High Court Mediation and Conciliation Centre. The 1d. Mediator shall also engage the services of a marriage/family counsellor for both the parties and try to resolve their differences.

(ii) As an interim arrangement, the Petitioner/Father is free to pick up his son every Sunday around 10:00 AM and spend four to five hours with the child, in his own home in Okhla where his other family members also reside.

(iii) The Respondent No.2/Mother can accompany the child during the said visits, if she so wishes. For the first two or three visits, the Investigating Officer or a lady constable from PS Okhla shall remain present at the residence of the Petitioner/Father to ensure that there is no untoward incident.

(iv) The RespondentNo.2/Mother and the Petitioner/Father as also the family members shall not indulge in any verbal abuse or any form of physical violence against each other during the



visits. They have also assured the Court regarding the same. Anyone found violating this order, stringent action would be liable to be taken

(v) For the living expenses of the child, the Petitioner/Father shall remit to Respondent No. 2/Mother a sum of Rs.10,000/- per month on or before 10th of every month. The expenses for February, 2025 shall be paid by 20th February.

8. If the matter is resolved, then the parties shall abide by the settlement. If not, the parties are free to avail of their remedies in accordance with law. If the matter is not settled between the parties, the above arrangement may be modified by any Court of competent jurisdiction.

9. On the coming Sunday, when the wife visits her matrimonial home, she is also free to pick up her personal belongings as also some of the child's belongings, if any."

3. Learned counsel for the applicant further submitted that pursuant to the direction passed in paragraph no. 9 of the aforesaid order, the petitioner did not permit respondent No. 2 to collect her belongings from her matrimonial home.

4. In view of the changed circumstances viz., pronouncement of *talaq-al-ahsan* by the petitioner, respondent No. 2 now seeks to withdraw her consent for visitation rights granted to the petitioner/father and all other arrangements agreed to by her, at the time of passing of the said order, as recorded in paragraphs 7 and 9.

5. Issue notice.

6. Learned counsel for the petitioner/non-applicant appearing on advance copy, accepted notice and vehemently opposed the instant application submitting to the effect that the order dated 10th February, 2025 read with order dated 3rd March, 2025 was passed with the consent of both



the parties and is to remain operative till the disposal of the guardianship proceedings before the court concerned.

7. Heard learned counsel for the parties and perused the contents of the application.

8. A perusal of order dated 10th February, 2025 makes it clear that the order was passed with consent of the parties, which consent was based on the circumstances as were then prevailing.

9. However today, respondent No.2 has categorically stated that since the petitioner violated the terms of the consent order, as referred to above, she is not ready or willing to abide by any other aspects that were part of that consent order.

10. It is further noticed that order dated 10th February, 2025 made by the Predecessor Bench had expressly recorded that it was an *interim arrangement* and that if the parties were unable to resolve their *inter-se* disputes by way of a mediated settlement, they were free to avail their other remedies in accordance with law. Order dated 10th February, 2025 further records that the interim arrangement comprised in the said order could be modified by any court of competent jurisdiction if the matter was not settled between the parties.

11. In view of what has been stated by respondent No.2 today, this court is of the view that the interim arrangement put in place by way of order dated 10th February, 2025 is no longer sustainable and requires to be revoked.

12. It must also be noticed that respondent No.2 has said that she is no longer interested in participating in the mediation proceedings with the petitioner, by reason of conduct of the latter.



13. The terms of interim arrangement as recorded in order dated 10th February, 2025 read with order dated 03rd March, 2025 are accordingly revoked.

14. That being said however, this court is of the view that since the minor son is only about 01 year and 08 months old, it is in the best interests of the safety and welfare of the child that he remains in the care and custody of his mother, namely respondent No.2.

15. Furthermore, in order to balance the interests of the petitioner and respondent No.2 and keeping in view the overarching interests of the minor child, it is further directed that *if* the petitioner pays to respondent No.2 the sum of Rs.10,000/- per month towards living expenses of the minor son, on or before the 10th day of every month, as had been directed by the Predecessor Bench, he shall be entitled to visit his son and spend 02 hours or so every Sunday at respondent No.2's residence, at such time as may be mutually agreeable and convenient to the parties. It is made clear that respondent No.2 shall be entitled to remain present during such visits.

16. In view of what has been expressed by respondent No.2, the mediation proceedings that were underway before the Delhi High Court Mediation and Conciliation Centre stand closed, as of now; leaving it open to the parties to re-commence the mediation, if they so desire, at any later stage.

17. Most importantly, it is clarified that the aforesaid arrangement is, yet again, only for the interregnum; and the parties shall be at liberty to move an appropriate application seeking visitation and/or custody of their minor child before the competent court as may be permissible, in accordance with law.



18. In view of the above directions, the instant application stands disposed of.

19. The petition already stood disposed of *vide* order dated 10.02.2025.

CHANDRA DHARI SINGH, J

ANUP JAIRAM BHAMBHANI, J

MARCH 27, 2025

Rt/kj

Click here to check corrigendum, if any