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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 817/2025**

MALLIKA NAGPAL GAKHARPetitioner
Through: Ms. Chavi Lazarus, Adv. along with
the Petitioner in person.
(M-9810155549)

versus

STATE GNCT OF DELHI & ORS.Respondents
Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Ms. Priyam Aggarwal &
Mr. Abhinav Kumar Arya, Adv. with
SI Parveen, PS Chanakya Puri.
Mr. Gurmeet Bindra, Adv. for R-2
along with the R-2 in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **12.03.2025**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Ms. Mallika Nagpal Gakhar, under Article 226 of the Constitution of India *inter alia* seeking issuance of a writ in the nature of *habeas corpus* for the production of both her minor daughters, *i.e.* 'A' and 'S.' Both her daughters are stated to be presently with their father, *i.e.* Respondent No. 2.
3. The matter was listed yesterday *i.e.*, 11th March, 2025 and the Court had directed that the Respondent No. 2-husband and the two daughters to remain present today in Court. The husband and the children are present today.
4. A detailed in-chamber interaction has been held with the parties as also the two daughters. The facts that have emerged from the in-chamber



interaction are that the Petitioner is a teacher who had taught at various established schools and is currently teaching in Kunskapsskolan International School, Sector 70, Gurugram, Haryana – 122004.

5. The Petitioner/wife got married to the Respondent No.2 on 13th May, 2011. After marriage, the couple had shifted to Malaysia where the first child-‘S’ was born. The daughters are aged about 11 years and 4 years.

6. The Petitioner/wife’s case is that there was enormous interference by the in-laws *i.e.*, father-in-law, mother-in law, brother-in-law and his family in their marriage. They were living together in the husband’s residence at B-102, Second Floor, Mayfield Garden, Sector-50, Gurugram which is owned by the husband and the mother-in-law. However, it is her case that sometime in November/December, 2024, the husband took an apartment on rent at B-307, Deerwood Bay, Nirvana Country, Gurugram and that she had moved with the husband and the children to the said apartment.

7. On 13th January, 2025, when the Petitioner had gone to her school, the children were taken away by the husband and his family. It is submitted by the Petitioner that she has not met her children since 9th February 2025.

8. The case of the husband is that the wife is having an extra-marital affair and that he has filed a petition for divorce in the Family Court, Tis Hazari, New Delhi. The copy of the said petition and the summons in the said matter have been handed over to the Petitioner today. The husband is the head of a B.P. Company *i.e.* Concentrix.

9. For various reasons, primarily the extra-marital affair, he decided to take the children with him and move with his brother’s family. Presently, he is living in Defence Colony with the children along with his brother’s family consisting of his brother, sister-in-law and their daughter.



10. The Court has also interacted with the children. After considering the overall conspectus of the matter, this Court is of the opinion that the parties wish to mediate their disputes as the husband does not wish to continue the marriage. The wife has presently moved back into the Mayfield Garden house. According to the husband, she had removed his tenants from the said apartment and illegally occupied the same. Without going into the said allegations, it deserves to be recorded that the wife *i.e.* Petitioner is now living with her mother in the Mayfield Garden house.

11. In these facts and circumstances, since the present petition is for a *habeas corpus* and the Court has interacted with both the daughters who are quite comfortably living with the father, the following arrangement is put in place:

- i) The father shall drop the daughters either on a Saturday or on a Sunday every week between 9:00 a.m. to 10:00 a.m. and pick them up around 3:00 p.m. in the afternoon. The daughters would be entitled to spend time with the mother *i.e.*, Petitioner and her family without any interference from the husband;
- ii) The father has assured the Court that the children would go back to their school *i.e.*, Scottish High International School, Gurugram. The elder daughter is stated to have missed her final examinations. The school shall take a compassionate view of the matter and consider her promotion to the next class based upon the past record or take a re-test as per the policy of the school, as the family has gone through extenuating circumstances;
- iii) Both the father and mother would be part of the school groups so as to ensure that both are well aware of their educational progress and



can take part in any activities of school. Insofar as cultural activities or parent teacher meetings are concerned, both father and mother would attend the same together after coordinating with each other;

iv) Accordingly, the parties are referred to the Delhi High Court Mediation and Conciliation Centre to amicably resolve their disputes. Both the parties appear to be willing to consider divorce by mutual consent but the terms may be worked out with the assistance of the Id. Mediator and their respective Counsels. The Petitioner has filed a criminal complaint at PS Chanakyapuri, New Delhi. Let no steps be taken in the said criminal complaint as parties wish to mediate their disputes.

v) The mother also seeks custody of the younger daughter. For the said purpose, she is free to approach the Family Court, if the same cannot be agreed upon in the mediation proceedings.

vi) Both the parties shall not indulge in any abusive behaviour with each other either through oral or written communications. If any parties indulge in any abusive behaviour, the present arrangement would be liable to be modified. The other parent may move an application before this Court in this regard;

vii) Insofar as the occupation of the Mayfield Garden house by the Petitioner which belongs to the husband's family is concerned, the parties are free to arrive at an agreement in the overall settlement or the husband may seek his remedies in accordance with law.

viii) At all times, both the parties shall keep the other spouse informed of their respective residential addresses and contact details including email address and mobile number;



- ix) Insofar as birthdays, festivities and celebrations are concerned, both parties shall celebrate the same jointly with the children;
 - x) Since the mother has not met the children for a couple of months, the husband shall drop the children to the residence of the mother tomorrow *i.e.*, 13th March, 2025 between 9:00 a.m. to 10:00 a.m. and pick them up around at 3:00 p.m. in the afternoon;
 - xi) The children shall celebrate the festival of Holi which is falling on 14th March, 2025 with the mother. The husband shall drop the children to the Petitioner's place at about 11:00 a.m. and pick them back at about 4:00 p.m. to 5:00 p.m.;
 - xii) While the children are with the father, the children shall be permitted to make video calls and audio calls in the evening after the school hours.
12. The parties shall appear before the Delhi High Court Mediation and Conciliation Centre on 20th March, 2025 at 4:00 p.m.
13. The Family Court would be free to modify the arrangement put in place today if there is no settlement in the matter.
14. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MARCH 12, 2025

Rahul/CK