



2025:DHC:4405-DB



\$~139

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 22.05.2025

+ **MAT.APP.(F.C.) 192/2025**
NITISH GUPTAAppellant

Through: Mr. Shekhar Parit Jha, Adv.

versus

SMT. SHYAMA GUPTARespondent

Through: *Nemo.*

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 31786/2025 (Exemption)

1. Allowed, subject to all just exceptions.

CM APPL. 31787/2025 (Delay)

2. For the reasons mentioned in the application, the delay of 26 days in filing the appeal is condoned.

MAT.APP.(F.C.) 192/2025

3. This appeal has been filed by the appellant, praying for the following reliefs;

“a)Accept the present appeal against the Impugned order dated 27.02.2025 passed in G.P. No 80/2024 by the court of Ms. Aditi Chaudhary, Ld. Principal Judge, West district, Tis Hazari Courts, Delhi,



2025:DHC:4405-DB



- b) Call for the record of G.P. No 80/2024 entitled as "Nitish Gupta Versus Shyama Gupta", pending before the Court of Ms. Aditi Chaudhary, Ld. Principal Judge, West district, Tis Hazari Courts, Delhi and is fixed for 05.06.2025,
- c) Direct the respondent to entrust the custody of baby Danisha to the appellant for 15 days continuously and further every Saturday and Sunday, during the summer holiday in her school,
- d) May pass such other or further order as this Hon'ble Court deem fit and proper in favour of the Appellant and against the Respondents."

4. The impugned order has been passed with the consent of the parties. We reproduce the relevant portion of the impugned order dated 27.02.2025, as under;

"As mutually agreed between the parties, the respondent shall bring the child to enable the petitioner to meet the child on 13.03.2025, 22.03.2025, 12.04.2025, 26.04.2025, 10.05.2025 and 24.05.2025 at Pacific Mall, Subhash Nagar between 05:00 p.m. to 08:00 p.m.

Meanwhile, written statement be filed within four weeks with advance copy to the petitioner who may file replication, if any within two weeks of receipt of written statement.

To come up for reporting compliance, completion of pleadings, admission-denial of documents and framing of issues on 05.06.2025."

5. The learned Counsel for the appellant was asked to satisfy the Court on the maintainability of the preset appeal in view of sub-



2025:DHC:4405-DB



Section (2) of Section 19 of the Family Courts Act, 1984.

6. The learned counsel for the appellant submits that since the respondent is not complying with the impugned order, and considering that the prayer pertains to the visitation rights during the summer vacation, the appeal should be heard and considered on merits.

7. The learned counsel for the appellant submits that the appeal is maintainable, and in support of this plea, he places reliance on the Judgments of the Supreme Court in ***Rosy Jacob v. Jacob A. Chakramakkal*** (1973) 1 SCC 840, and ***Vikram Vir Vohra v. Shalini Bhalla*** AIR 2010 SC 1675.

8. We are of the view that in case the respondent is not complying with the impugned order or any further directions as to visitation are sought, the remedy of the appellant is to file appropriate application before the learned Family Court. In light of the express statutory bar on the maintainability of the present appeal, we are unable to entertain the same.

9. We also find that reliance on the aforesaid judgments is misplaced, inasmuch as those judgments merely state that all the directions with respect to the custody of a child are interlocutory in nature and that a change in circumstances may warrant a modification of such directions. For seeking such a modification, if at all, the appropriate remedy of the appellant is to again approach the learned



2025:DHC:4405-DB



Family Court afresh. The present appeal, therefore, remains non-maintainable.

10. Accordingly, the appeal is dismissed, leaving it open to the appellant to avail of his remedies in accordance with law. The appellant shall pay cost of Rs.20,000/- to be deposited with the Delhi High Court Clerks Welfare Fund, within a period of two weeks from today.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 22, 2025

Pallavi/MY/DG

[Click here to check corrigendum, if any](#)