



2025:DHC:10583-DB



\$~10 and 9 (25.11.2025)

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

Date of Decision: 26.11.2025

+ MAT.APP.(F.C.) 331/2023, CM APPL. 58003/2023, CM APPL. 58004/2023, CM APPL. 33028/2024, CM APPL. 50135/2024, CM APPL. 44461/2025 and CM APPL. 60942/2025

ARUSHI KRISHNA DASGUPTAAppellant

Through: Mr. Yash Mishra, Adv.

versus

GOUROV DASGUPTARespondent

Through: Ms. Nikita Bhardwaj, Adv.

+ CONT.CAS(C) 906/2024, CM APPL. 50144/2024, CM APPL. 43985/2025 and CM APPL. 43986/2025

COURT ON ITS OWN MOTIONPetitioner

Through:

versus

GOUROV DASGUPTARespondent

Through: Ms. Nikita Bhardwaj, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.

1. This matter is being taken up today as 25.11.2025 was declared a holiday on the occasion of 350th anniversary of 'Guru Teg Bahadur's Martyrdom Day'.

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2. This order shall dispose of two connected cases, one being CONT.CAS(C) 906/2024 and the other is MAT.APP.(F.C.) 331/2023.
3. Through MAT.APP.(F.C.) 371/2023, the Appellant assails the correctness of the order dated 03.06.2023 passed by the learned Judge, Family Court, Dwarka, New Delhi in Guardianship Petition No. 73/2021, whereby the Appellant's petition was held to be not maintainable for want of territorial jurisdiction.
4. As per Section 9 of the Guardianship and Wards Act, 1890, the Petition is required to be filed before the Court where the minor child ordinarily resides.
5. The Appellant filed petition before the Family Court at Delhi on 03.09.2021. As per the allegation of the Appellant, the Respondent/Husband took away the minor child on 23.07.2020.
6. Thus, the Appellant did not take any immediate steps and waited for more than a year before filing the Petition, before the Family Court at Delhi although the child was residing in Mumbai, Maharashtra.
7. It has also come on record that the minor child has been studying in a school at Mumbai, Maharashtra since January 2020.
8. Consequently, the Family Court concluded that the petition is required to be filed by the Appellant before the Court having territorial jurisdiction where the minor child resides.
9. Learned counsel representing the Appellant has submitted that

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the Respondent had previously filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'] objecting to the maintainability of the Petition on the question of lack of territorial jurisdiction of the Court at Delhi, which was dismissed. Therefore, an application under Order VII Rule 10 of the CPC filed by the Respondent was not maintainable.

10. This Court has considered the submission made by the learned counsel representing the Appellant. An application under Order VII Rule 11 of the CPC is required to be decided on the basis of the averments made in the plaint or petition, whereas, while deciding the application under Order VII Rule 10 of the CPC, the Court may examine the documents filed by the parties.

11. Hence, the scope of deciding the application under Order VII Rule 10 of the CPC is broader than that under Order VII Rule 11 of the CPC.

12. The Family Court has only directed the Appellant to file a Petition before the Competent Court having jurisdiction where the minor child resides.

13. Hence, no ground for interference is made out.

14. Accordingly, MAT.APP.(F.C.) 331/2023, along with the pending applications, is dismissed.

15. CM APPL. 58003/2023, seeking condonation of delay of 125 days in filing MAT.APP.(F.C.) 331/2023 has been filed by the Appellant. Since, MAT.APP.(F.C.) 331/2023 has been heard and

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decided on merits, no further orders are required in this application. Accordingly, CM APPL. 58003/2023 is disposed of.

16. CONT.CAS(C) 906/2024 is also pending against the Respondent for failure to produce the minor child before the Court. Since the MAT.APP.(F.C.) 331/2023 has already been dismissed, this Court does not consider it appropriate to continue with the contempt proceedings. Consequently, CONT.CAS(C) 906/2024 is also disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 26, 2025

s.godara/rgk

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