



2025:DHC:10885-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 02.12.2025

+ MAT.APP.(F.C.) 242/2025 and CM APPL. 39749/2025
KOMITA SINGHAppellant

Through: Mr. Manish Kaushik, Adv.

versus

SAURABH MALIKRespondent

Through: Mr. Satwik Parikh, 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. Through the present Appeal, the Appellant assails the correctness of the order dated 09.05.2025 passed by the learned Family Court, whereby her application under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'], seeking rejection of a Guardianship Petition filed by the Respondent, the biological father of the child, was dismissed.

2. It is the case of the Respondent that, the Appellant and the Respondent were in a live-in relationship, and out of the said relationship a male child, Master Neil Malik, was born on 03.10.2019.

3. Accordingly, the Respondent filed a petition under Section 7 read with Sections 12 and 25 of the Guardians and Wards Act, 1890 [hereinafter referred to as 'GWA']. Thereafter, the Appellant filed an

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application under Order VII Rule 11 of the CPC seeking rejection of the Guardianship Petition. As already noticed hereinabove, the said application has already been dismissed.

4. Heard learned counsel representing the parties at length and, with their able assistance, perused the paper book.

5. Learned counsel representing the Appellant, while referring to Sections 6 and 9 of the Hindu Minority and Guardianship Act, 1956 [hereinafter referred to as 'HMGA'] and certain provisions of the Hindu Succession Act, 1956 [hereinafter referred to as 'HSA'], submits that no petition for guardianship of an illegitimate child is maintainable. He further submits that the Respondent has no cause of action and that the petition filed by him is barred by law.

6. This Court has considered the submissions advanced by the learned counsel for the Appellant; it is evident that Section 6 of the HMGA defines who are the natural guardians of a Hindu minor.

7. Learned counsel for the Appellant has made a reference to Section 6(b) of the HMGA, which provides that, in the case of an illegitimate boy or an illegitimate unmarried girl, the mother, and after her, the father, is assumed to be a natural guardian. However, this provision is required to be read in the context of an illegitimate child.

8. *Prima facie*, in the opinion of this Court, at this stage, dealing with the arguments advanced by the learned counsel for the Appellant, would require an examination of the factual matrix with respect to the alleged illegitimacy of the minor child. However, this Court is



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constrained to act upon the aforesaid arguments for the reason that, the determination of legitimacy and illegitimacy of the minor child would be a subject matter of trial requiring leading of evidence, particularly, since the Respondent claims to be the biological father of the minor child.

9. As such rejection of the Guardianship Petition would result in denying the Respondent an opportunity to prove his case. He has approached the Court of law seeking custody of the minor child, an issue which would require the adjudication of an appropriate Court after the parties are permitted to lead evidence.

10. Consequently, finding no merit, the present Appeal, along with pending application, is dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

DECEMBER 02, 2025

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