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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 07.08.2025***Judgment delivered on: 21.08.2025***

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MAT.APP.(F.C.) 284/2025 & CM APPL. 48465/2025**PRIYANKA****.....Appellant****Through: Ms. Deepika V. Marwaha, Sr.
Adv. with Ms. Nusrat Hossain
and Ms. Raunika Johar, Advs.****versus****YUDHVIR CHHIKARA****.....Respondent****Through: None.****CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR****J U D G E M E N T****HARISH VAIDYANATHAN SHANKAR, J.****CM APPL. 48466/2025 & CM APPL. 48467/2025 (Exemption)**

1. Allowed, subject to all just exceptions.
2. The applications stand disposed of.

MAT.APP.(F.C.) 284/2025 & CM APPL. 48465/2025

3. The present appeal is filed under Section 19 of the Family Courts Act, 1984 seeking to set aside the interim Order dated 16.07.2025 passed by the learned Principal Judge, Family Court, East District, Karkardooma Courts, Delhi in **GP No. 38/2019** titled as "***Yudhvira Chikara vs. Priyanka***".

**BRIEF FACTS:**

4. The short point in the present appeal is confined to the fixation of visitation rights granted to the Respondent in respect of the minor children of the parties herein.

5. The impugned Order dated 16.07.2025 is brief in its terms and it would be convenient to reproduce the same in its entirety as follows:-

“Ld. Counsel for respondent submits that in compliance of order dated 10.12.2024 this Court can fix any date for visitation after 04.08.2025.

In these circumstances, I fix date for visitation i.e. every 2nd Saturday and 4th Saturday from August-2025 onwards at 02.00 p.m. to 04.00 p.m., till the disposal of the present petition or any further order, in the Children Room of the Family Court, Karkardooma Complex, Delhi for the purpose of meeting of petitioner with children. Let respondent to bring the children.

Petitioner will be at liberty to given any gifts to the children. It is submitted by parties that issues have already been framed in this case.

Now to come up for PE on 14.08.2025. List of witnesses be filed by both the parties within 7 days. Evidence affidavit be filed within 15 days with advance copy to opposite counsel.”

6. The principal issue that is canvassed by the Appellant/mother appears to be the direction for physical visitation permitted to the Respondent/father by the learned Family Court. It is contended by the learned Counsel for the Appellant/mother that the elder minor daughter, aged about 15 years, has consistently expressed her unwillingness to meet the father and in light of the same, such a direction is unsustainable.

7. By the interim Order dated 10.12.2024, the learned Family Court, after identifying various facets in the relationship between the parties, in its ultimate analysis directed as follows:-

“31. In the ultimate analysis, the interim right of the non-custodial



parent/father, to meet the children is recognized and further it is the need of the hour that the children are given psychological help to assist them in developing a holistic contact with the non-custodial parent/father.

32. An affirmative assistance by the custodial parent/mother, at this juncture, is indispensable.

33. Therefore, it is directed as under:-

- i. Till the new measures are in place, the electronic communication between the child and the noncustodial parent/father shall continue in the similar fashion on second and fourth Sunday of every month. The parties shall ensure utmost harmony in the manifestation of the same. The timing of the communication can be mutually fixed by the parties amongst themselves;
- ii. The custodial parent/mother who herself is a doctor, shall suggest the name of some Psychologists, in the vicinity of the place of her abode, for guidance of the children and removing the negative impression whatsoever they have, about the non-custodial parent/father;
- iii. The non-custodial parent/father, can also suggest on the point no.(ii) above;
- iv. The custodial parent/mother shall formulate a plan as to how it will be conducive to arrange a physical meetings (weekly fortnightly/monthly meetings; physical custody during vacations or on special days; overnight stays etc.) of the children with the noncustodial parent; share the same with the Id. Counsel of the petitioner through her own Id. Counsel, within two weeks from the date of this order. The noncustodial parent shall give his reflections on the same and/or suggest an alternative plan(s) and share it with the Id. Counsel of the respondent through his own Id. Counsel before the next date of hearing. The same shall be put up before the Court on the next date of hearing for passing of the appropriate directions;
- v. If the parties feel that any other issue needs to be addressed, but is not listed here, shall put forth the same before the Court on the next date of hearing. "

(Emphasis supplied)

It is pertinent to refer to paragraph No. 33(iv), extracted hereinabove, which, after a comprehensive analysis of the position of law and factual circumstances existing between the parties and multiple interactions with the children, led the Family Court to



conclude that the initiation of physical meetings of the children with their father was necessary. It was further expressly stipulated in the aforesaid paragraph that the Appellant/mother was required to formulate a well-structured plan for such meetings, within a period of two weeks from the date of the Order.

8. On a perusal of the subsequent proceedings, it emerges that the matter was listed before the learned Family Court on multiple occasions thereafter. However, it is evident that no such plan, as directed, was ever placed before the learned Family Court.

9. As already stated, the learned Family Court, in its Order dated 10.12.2024, after having considered the principal issue and the factual circumstances between the parties, found it necessary to issue the directions therein.

10. The Order impugned herein came to be passed almost seven months after the Order dated 10.12.2024 and the sole substantive grievance, which the Appellant/mother appears to harbour in the present proceedings, is confined to the facet of the Respondent/father having been permitted thereunder, to have physical meetings with the minor children.

CONTENTIONS BY THE APPELLANT:

11. Learned Senior Counsel for the Appellant/mother has assailed the impugned Order by relying on the various earlier orders passed by the Co-ordinate Bench of this Court, which orders came to be passed after interacting with the children on multiple occasions and wherein the Court had recorded the children's unwillingness to meet the Respondent/father.



12. Learned Senior Counsel refers to the Order dated 23.11.2023, in which the learned Single Judge took note of the fact that there was no *mala fide* violation of any Order in respect of the children meeting with the Respondent/father and that the absence of meetings was attributable to the express reluctance of the children to interact with their father.

13. She places reliance on the Judgment of the Hon'ble Supreme Court in ***Gayatri Bajaj vs. Jiten Bhalla***¹ and in particular, paragraph No. 14 thereof, which reads as follows:-

“14. From the above it follows that an order of custody of minor children either under the provisions of The Guardians and Wards Act, 1890 or Hindu Minority and Guardianship Act, 1956 is required to be made by the Court treating the interest and welfare of the minor to be of paramount importance. It is not the better right of the either parent that would require adjudication while deciding their entitlement to custody. The desire of the child coupled with the availability of a conducive and appropriate environment for proper upbringing together with the ability and means of the concerned parent to take care of the child are some of the relevant factors that have to be taken into account by the Court while deciding the issue of custody of a minor. What must be emphasized is that while all other factors are undoubtedly relevant, it is the desire, interest and welfare of the minor which is the crucial and ultimate consideration that must guide the determination required to be made by the Court.”

(Emphasis supplied)

14. Learned Senior Counsel also referred to the Judgment of the Co-ordinate Bench of this Court in ***Dr. Geetanjali Aggarwal vs. Dr. Manoj Aggarwal***², particularly paragraph nos. 26 to 28 and 30, to contend that the present Order, though styled as an interim order, is not in the nature of an interlocutory order, as it affects the vital rights of the parties, and in matters of visitation, constitutes an Order

¹ 2012 SCC 471

² 2024 SCC OnLine Del 7220



impinging upon their substantive rights with a bearing on the final determination of inter se rights and the welfare of the children. The relevant paragraphs are extracted below:-

“26. From a perusal of the aforesaid, it is clear that the Family Court while exercising powers under Section 12 of the GW Act, cannot only direct that the minor child be produced before Court but can also direct that the minor child be produced before any person as the Court deems appropriate; this may include a counsellor or a psychologist. In fact, the Court may also direct that the temporary custody of the minor child be handed over to any party as it deems appropriate. Taking into account the far-reaching effects that directions issued under Section 12 of the GW Act can have, it is evident that the orders passed under Section 12 of the said Act not only impact the rights of the parties, but also have a huge impact on the minor child. Furthermore, these orders can be passed by the Family Court only after examining the merits of the rival submissions of the parties and are, therefore, necessarily adjudicatory in nature.

27. However, despite the far-reaching effects which orders passed under Section 12 of the GW Act can have on the parties as also on the minor child, this provision describes such orders as interlocutory orders. Learned counsel for the respondent has, therefore, urged that even if the provisions of the FC Act are treated as being overriding in nature, once an order passed under Section 12 of the GW Act has been described as an interlocutory order under the GW Act, the said order must be treated as an interlocutory order under the FC Act as well. Learned counsel for the appellant has, however, urged that taking into account the impact orders passed under Section 12 of the GW Act can have, they, despite being interim in nature, cannot be treated as mere interlocutory orders from which no appeal would lie.

28. Having given our thoughtful consideration to the rival submissions of the parties as also the erudite submissions made by the learned Amicus Curiae, we are unable to agree with the respondent. Once we have come to the conclusion that the provisions of the FC Act cannot be controlled by the provisions of the GW Act, the description of an order as an interlocutory order under the GW Act, cannot, in our view, be a ground to treat the said order as an interlocutory order for the purposes of the FC Act as well. In our opinion, an order like the order impugned in the present appeal, which undoubtedly impinges on the substantive rights of the parties and can also have an effect on the final determination of their rights as also the welfare of the child, cannot be treated as merely being interlocutory in nature. It is



necessarily an order touching upon matters of moment and certainly has the trappings of a final order.

30. In the light of the aforesaid, we are inclined to agree with the appellant that the nomenclature of an order in itself cannot be determinative of the nature of that order. Merely because an order, despite affecting the vital rights of the parties, is labelled as an interlocutory order under a particular statute, cannot imply that the same must always be treated as an interlocutory order. In the present case, the FC Act which provides for this appellate provision, neither defines the expression "interlocutory order" nor contains any ouster provision as contained in the Commercial Courts Act, 2015, and therefore, it would be against the very object and spirit of the said Act to exclude orders that pertain to matters of moment from the ambit of the appellate provision under Section 19 (1) of the FC Act. It is only those orders which are merely procedural and do not have trappings of finality which can be treated as interlocutory orders and would, therefore, not be amenable to appeal under the FC Act."

(Emphasis supplied)

ANALYSIS AND FINDINGS:

15. Having considered the submissions by the learned Senior Counsel for Appellant/mother, this Court is of the view that the Co-ordinate Bench of this Court had, by a Judgment dated 11.04.2023, in paragraph No. 6 thereof, directed the learned Family Court to decide the application, uninfluenced by prior interim orders and thereby afforded it a clean slate to re-examine the matter *de novo*:-

"6. The family court shall consider the application and dispose of the same in accordance with law without being influenced by any interim arrangement that was arrived at in these proceedings."

16. This Court opines that the prevailing legal framework cannot be construed in a manner such as to deprive any parent of access to their child for an unduly long period of time, a principle which is also recognised in the Order dated 23.11.2023, which is relied upon by the learned Senior Counsel.



17. In *Yashita Sahu v. State of Rajasthan*³, the Hon'ble Supreme Court emphasised that a child in its tender age has a basic human right to love, affection, company, and protection of both the parents. This right does not diminish merely because the parents are in matrimonial discord. Even when custody is granted to one parent, the other must ordinarily be afforded sufficient and meaningful visitation to ensure the child does not lose social, physical, and psychological contact with either parent, save in exceptional cases where specific, cogent reasons justify denial. The relevant paragraphs of the aforesaid judgement are extracted hereinbelow:-

“22. A child, especially a child of tender years requires the love, affection, company, protection of both parents. This is not only the requirement of the child but is his/her basic human right. Just because the parents are at war with each other, does not mean that the child should be denied the care, affection, love or protection of any one of the two parents. A child is not an inanimate object which can be tossed from one parent to the other. Every separation, every reunion may have a traumatic and psychosomatic impact on the child. Therefore, it is to be ensured that the court weighs each and every circumstance very carefully before deciding how and in what manner the custody of the child should be shared between both the parents. Even if the custody is given to one parent, the other parent must have sufficient visitation rights to ensure that the child keeps in touch with the other parent and does not lose social, physical and psychological contact with any one of the two parents. It is only in extreme circumstances that one parent should be denied contact with the child. Reasons must be assigned if one parent is to be denied any visitation rights or contact with the child. Courts dealing with the custody matters must while deciding issues of custody clearly define the nature, manner and specifics of the visitation rights.

23. The concept of visitation rights is not fully developed in India. Most courts while granting custody to one spouse do not pass any orders granting visitation rights to the other spouse. As observed earlier, a child has a human right to have the love and affection of both the parents and courts must pass orders ensuring that the child is not totally deprived of the love, affection and company of one of her/his parents.”

³ (2020) 3 SCC 67



(Emphasis supplied)

18. This Court considers that the breakdown of the marriage does not terminate the parental responsibility and the welfare of the child cannot be subjected to unilateral perception of the parent. The said contention as held by the Hon'ble Supreme Court in **Soumitra Kumar Nahar v. Parul Nahar**⁴ and which has been relied upon by a Coordinate Bench of this Court in **Nikhil Kapur v. Manat Lamba**⁵ reads as follows:-

“49. In Soumitra Kumar Nahar v. Parul Nahar (supra), it is held that that the rights of the child need to be respected as he/she is entitled to the love of both the parents. Even if there is a breakdown of marriage, it does not signify the end of parental responsibility. It is the child who suffers the most in a matrimonial dispute. It is also observed therein by Hon'ble Supreme Court that it is well settled by the catena of judgments that while deciding the matters of custody of the child, primary and paramount consideration is always the welfare of the child. If the welfare of the child so demands, then technical objections cannot come in the way. However, while deciding the welfare of the child, it is not the view of one spouse alone which has to be taken into consideration...”

19. Evidently, the elder child of the parties is on the verge of attaining majority, being just 3 years short. While the court recognises that the child is intelligent and capable of making her own decisions, including the choice to refuse to visit her father even for two hours twice a month, it is important to consider that once she reaches majority, the opportunity to rebuild or strengthen the bond with her father may become increasingly difficult.

20. The Appellant/mother challenged this Order by way of MAT.APP.(F.C.) 446/2024 before this Court, pursuant to which an

⁴ (2020) 7 SCC 599

⁵ 2024 SCC OnLine Del 8657



Order dated 24.12.2024 was passed. Even thereafter, no concrete proposal appears to have been given.

21. Following the said order, the matter was taken up by the learned Family Court on various dates. Although an averment was made that assistance of a child psychologist was solicited, no details in respect of any such psychologist are mentioned, and in fact this assertion, recorded in the learned Family Court's Order dated 27.01.2025 appears to be inconsistent with the averments in the Application dated 01.02.2025.

22. This court notes that the Appellant/mother filed an application suggesting Institute of Human Behaviour & Allied Sciences [“**IHBAS**”] as well as the agency for the purpose of complying with the directions as given in para 33 (ii) of the order, nearly two months after the passage of the Order dated 10.12.2024.

23. Be that as it may, this Court does not deem it appropriate to delve into the nitty gritty of what appears to be a clearly belated and partial compliance of the directions of the learned Family Court.

24. It appears that despite multiple hearings before the learned Family Court, no concrete progress was made to ensure that the Respondent could physically meet the children.

25. The present Order impugned herein is thus the culmination of all the relevant proceedings prior to the said date. Undoubtedly, this Court does not endorse compelling a child to act against their will, but the continued absence of a reintegration plan for one of the parents cannot be overlooked. This Court acknowledges the efforts made by the learned Family Court on various occasions to resolve the issues,



but the prolonged physical separation from one of the parents without any end in sight, cannot be deemed beneficial for the children.

26. The Courts cannot ignore the practical realities such as the risk of tutoring or development of a negative perception towards one parent due to their prolonged exclusive custody with the other parent. Further, it cannot be readily accepted that the children are at a sufficiently mature age to irrevocably exclude a parent from their lives. In **Kiran Raju Penumacha v. Tejuswini Chowdhury**⁶, the Hon'ble Supreme Court emphasised the Court's heightened duty to safeguard a minor's welfare through a cautious, considered approach, even if it departs from procedural norms; the relevant extract is reproduced below:-

"14.in the present lis, the issue relates to the life of a minor child who has still not attained maturity himself and is not in a position to decide what is best for him. Thus, the responsibility for him is also on the Court which is seized of the matter. The Court has to be extremely careful in taking a considered view, such that the interests of the minor child are adequately safeguarded."

27. While undoubtedly, the child's welfare remains the paramount consideration, this Court is also of the opinion that, in certain circumstances, perpetuating the existing arrangement may not be the most appropriate course, particularly given the children's age and the nearly six years spent exclusively with one parent during their formative years.

28. In the very Judgment referred to by the Ld. Senior Counsel, is in **Gayatri Bajaj** (*supra*), at paragraph No. 13, the Hon'ble Supreme Court also records that each case must be considered on its own peculiar set of facts. The relevant paragraph is extracted herein below:

⁶ 2025 SCC OnLine SC 562



“13. The views expressed in Para 19 and 20 of the report in Mousmi Moitra Ganguli v. Jayant Ganguli[5] would require special notice. In the said case it has been held that it is the welfare and interest of the child and not the rights of the parents which is the determining factor for deciding the question of custody. It was the further view of this Court that the question of welfare of the child has to be considered in the context of the facts of each case and decided cases on the issue may not be appropriate to be considered as binding precedents. Similar observations of this Court contained in para 30 of the Report in Sheila B. Das v. P.R. Sugasree[6] would also require a special mention.”

It is apparent that in no two matrimonial cases, which would have their own contours, can a common standard or preposition be stated to hold the entire field.

29. In light of the prevailing legal position and the fact that the Appellant/mother and the Respondent/father have been living apart since 24.05.2019, with both the parties fighting tooth and nail even for momentary access to the children, while considering the fact that the children are presently reluctant to meet their father, the Court is of the view that a limited physical interaction of two hours, twice a month would cause no prejudice or harm to them and is, in fact, essential for fostering their relationship with the father, which is in their long-term welfare and best interest.

30. This Court observes that, given the parameters within which the visitation is to occur, the Order strikes a judicious balance between safeguarding the welfare of the children and ensuring that the respondent's right of access, as a parent, is not wholly denied for an extended duration.

31. The Court is of the view that the Order impugned is in no way determinative of substantive rights of the parties and is only in the nature of an interim arrangement.



32. We are of the opinion that the learned Senior Counsel's reliance on *Dr. Geetanjali Aggarwal* (*Supra*) may not be apposite in the present factual conspectus as the Order in question in the said judgement is related to a case where the child's school was directed to be changed to enable the father to have temporary custody. This Order was deemed adjudicatory, as it determined the valuable rights of the parties. In contrast, the order at hand cannot be stretched to the extent of being "an adjudicatory order deciding valuable rights".

33. For the reasons afore-stated, the Court is of the view that there is no infirmity in the impugned order, the present Appeal stands dismissed.

34. Hence, the present Appeal along with pending application(s), if any, stands disposed of.

ANIL KSHETARPAL
(JUDGE)

HARISH VAIDYANATHAN SHANKAR
(JUDGE)

AUGUST 21, 2025/v/RN