



2025:DHC:2579-DB



\$~4(14.04.2025)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 15.04.2025

+ MAT.APP.(F.C.) 383/2023 & CM APPL. 66698/2023

RICHA SUREKAAppellant

Through: Mrs. Vandana Kejrewal, Adv.
versus

AKHIL KUMAR SUREKARespondent

Through: Mr. NP Singh, Mr. Barun Dey
& Mr. Amrit Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

1. The matter is taken up today as 14.04.2025 was declared as a holiday on account of birthday of Dr. B.R. Ambedkar.
2. This appeal has been filed challenging the Order dated 04.09.2023 passed by the learned Judge, Family Court, South West District, Dwarka Court, Delhi (hereinafter referred to as "Family Court") in GP No. 79 of 2022 titled *Akhil Kumar vs. Surekha*, directing that the girl child, who is now around eleven years old, shall be allowed physical interaction with the respondent/father on 3rd Saturday of every month, post the clearance of the arrears of the maintenance, under the supervision of the counsellor at the Children Room at Family Court, Dwarka, for one hour between 2:00 PM to 3:00 PM.
3. The learned counsel for the appellant submits that the appellant along with the girl child have been residing separately from the



2025:DHC:2579-DB



respondent since the year 2016. She further submits that earlier, the respondent had filed a guardianship petition, being GW No. 58 of 2017, before the learned Family Court at Faridabad, which he withdrew on 20.10.2018. The learned Family Court in the said order had observed that the permission to file a fresh petition is not granted, however, the respondent may, if permitted by law, file the same.

4. She submits that pursuant to the above order, the respondent filed a fresh guardianship petition, being GP No. 172 of 2021, before the learned Family Court at Noida. The same was transferred to the learned Family Court at Dwarka and was re-numbered as GP No. 79 of 2022, in which the present impugned order has been passed.

5. She submits that the child has had no interaction with the respondent since at least 2018 when the respondent withdrew his earlier guardianship petition. Before that, in the earlier guardianship petition there were some interactions between the girl child and the respondent however, the respondent was truly not interested in the same.

6. She further submits that presently, the respondent is in arrears of around Rs. 75,55,460/- towards the maintenance and other expenses to be paid to the appellant for herself and the child. She submits that the appellant is even willing to give up her claim to the maintenance if the respondent is denied the visitation rights.

7. On the other hand, the learned counsel for the respondent submits that the respondent needs to have an interaction with the child to develop a bond between the two. He submits that only a limited visitation right has been granted by way of the impugned order by the



2025:DHC:2579-DB



learned Family Court and therefore, the present appeal is liable to be dismissed.

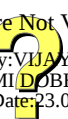
8. He submits that as far as the arrears of maintenance are concerned, the respondent is in arrears of only around Rs. 3,00,000/- towards maintenance. For the other expenses, he disputes his liability.

9. Before we consider the above submissions of the learned counsels for the parties, we would note that by an Order dated 15.03.2024, we had referred the parties and the child to a counsellor.

10. The counsellor had submitted a report dated 17.05.2024. We have gone through the same. Before granting short visitation to the respondent with the child, the learned Family Court had also interacted with the child and found that the child has not stated anything specific as to her non-inclination to interact with her father and merely stated that she does not know him or even recognizes him and has further stated that she has no interest to interact with him who has not cared for her at all.

11. From the above narration of facts and the submissions, one thing that would be apparent is that the girl child is now eleven years of age and has been living separately from the respondent since the year 2016. Admittedly, she was having some minor interactions with the respondent till at least 2018, whereafter the respondent states that he was not allowed to have any interaction with the girl child.

12. Though the appellant submits that it was all because of the respondent's own doing that the respondent stopped having been interaction with the girl child and eliminated her from himself, at this juncture, without there being any material placed before us, we do not





2025:DHC:2579-DB



wish to comment on the justification of the appellant regarding her alienating the child from respondent. However, we are certain and conscious of one fact that a child needs the love and affection of both parents for his/her complete physical, social, psychological and mental development. The paramount consideration is thus, the welfare of the child. Whatever be the dispute between the petitioner and the respondent, the minor child should not be deprived of the love and affection of the parents. Presently the bond between the girl child and the respondent would have definitely been broken due to lack of interaction between them since the last seven years, which has to be rebuilt for the welfare of the child.

13. In the present appeal we are confined only to determine if the learned Family Court has committed any error in permitting a limited interaction between the respondent and the girl child.

14. The learned counsel for the appellant insists that such visitation should only occur in the presence of the appellant. The respondent is totally against the same. We feel that the presence of a counsellor will help the visitation to be fruitful for the child. Given the Counsellor report appointed by us, presently we do not deem it fit to direct the meeting of the child with the respondent at any neutral place or in the presence of the appellant.

15. Therefore, the learned Family Court has, in our opinion, rightly taken a small step to have initiated a limited interaction between the girl child and the respondent. The result of the same can be considered by the learned Family Court at a later stage, before passing further directions on the same.



2025:DHC:2579-DB



16. As far as the arrears of maintenance is concerned, we are informed that the respondent is paying for the school fee of the girl child. There is a dispute of the arrears of maintenance being paid by the respondent; the difference between the same is only around Rs.7,00,000/-. This, however, does not include the expenses which the appellant is claiming to be undertaking in terms of the Order dated 24.05.2023 passed by the learned Family Court.

17. We are of the opinion that these should be determined by the learned Family Court and we would like to refrain from commenting on the same except stating that the learned Family Court, in the impugned order, has directed that the visitation rights shall be exercised by the respondent on payment/clearance of the arrears of maintenance.

18. As noted hereinabove, the learned counsel for the appellant submits that the appellant is even willing to forgo her claim of maintenance, however, she submits that the child would be traumatised when she is directed to meet the respondent at the Court premises. The aforesaid submission does not impress us. The bond between the child and her father cannot be prevented from being re-established only by giving up the claim of maintenance.

19. While we do not find from the report of the counsellor appointed by us that the child is unwilling to meet the respondent, at least an attempt in that direction needs to be made. If the learned Family Court on receiving reports from the counsellor attached to that Court finds that such attempt has not given the desired result or is resulting in the detriment of the child, the learned Family Court can



2025:DHC:2579-DB



always modify its order or even recall the visitations. It is too premature today to presume that such limited visitation could cause detriment to the child.

20. In view of the above, we find no merit in the present appeal, the same is dismissed.

21. Any observation made hereinabove by us, shall not, in any manner, influence the learned Family Court in the same.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 15, 2025/Pr/Sc/Sm

Click here to check corrigendum, if any