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

+ **MAT.APP.(F.C.) 293/2025 & CM APPL. 50308/2025 (Ex. from filing certified copy of annexures)**

SARITA SHARMA

.....Appellant

Through: Mr. Vinay Kumar, Mr. Mandeep Singh, Mr. Arun Tyagi & Mr. Dheeraj Kumar, Advs.

versus

MAYA DEVI THROUGH SAVITA

.....Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

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18.08.2025

CM APPL. 50309/2025 (Delay of 48 days in filing the appeal)

1. In view of the reasons stated in the application, the delay of 48 days in filing the appeal is condoned.
2. The application shall stand disposed of.

MAT.APP.(F.C.) 293/2025

3. The present appeal has been filed under Section 19 of the Family Courts Act, 1984, against the Impugned Order dated 09.05.2025, passed by the learned Judge, Family Court-03, Karkardooma Courts, Delhi, whereby the learned Family Court dismissed the application for interim custody of the minor child in GP



No. 83/2024, titled as ***Smt. Sarita Sharma vs. Smt. Maya Devi.***

4. The Appellant is the biological mother of the minor child, who is about 12 years old. After the death of Appellant's husband on 10.09.2017, the Appellant remarried, and the minor child has since remained in the custody of her paternal grandparents.

5. The Appellant filed a petition under Section 25 of the Guardians and Wards Act, 1890, subsequent to the death of the minor child's grandfather on 07.09.2024, seeking custody of the minor child. During the pendency of the said petition, the grandmother of the minor child also passed away.

6. Presently, the minor child is residing with her *bua* (sister of the Appellant's deceased husband). The Appellant has also filed an application seeking interim custody of the minor child.

7. The Family Court, after interacting with the child, made the following observations:

“12) The Court had held in-chamber interaction with the child Avni at length. The child is vocal and articulate and very mature for her age. The child is intelligent, doing well in her studies, and was even able to relate in detail the particular ailments and conditions from which her grandparents were suffering and eventually passed away from. The child had specifically stated that all these years, the petitioner i.e. her mother had never tried to meet her or even contact or call her, even on special occasions like birthdays, festivals etc.

13) The child has been asked in detail about the family of her Bua Smt. Savita, her time with her grandparents, as well as the family of her Bua, with whom she is living since last two months since the death of her grandmother.

14) It seems that the child is happy, comfortable and well looked after by the Bua and her husband. The petitioner has annexed certain photographs showing herself and the child. However, in these photographs, clearly the child was of four years of age or younger. All these photographs are pertaining to the time before the death of the father of the child. The other photograph annexed by the petitioner are of the child Avni in some Instagram



or some social media post. These photographs by itself do not indicate that there is any real connection or communication between the child and the petitioner.”

8. Learned counsel appearing on behalf of the Appellant contends that no party is expected to collect evidence solely for the purpose of filing a case. It is further submitted that the Respondent (*bua* of the minor child) has three children of her own, and, therefore, the Appellant is entitled to the interim custody of the minor child.

9. This Court has considered the submissions. While deciding custody matters, the Court is required to examine the welfare and best interests of the child, which are of paramount importance.

10. In the present case, the Family Court has passed the impugned order after interacting with the minor child. The Court has further directed that its observations be kept in a sealed cover.

11. At this stage, the Appellant seeks interim custody, which, in effect, would amount to granting final relief without adjudicating the main case.

12. The minor child is now over 12 years old, and has expressed her desire to reside with her *bua*.

13. Any change at this stage may adversely impact the well-being of the minor child; hence, there is no ground to interfere. However, the Family Court is requested to make sincere endeavours for the expeditious disposal of the main petition.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

AUGUST 18, 2025/v/ds