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IN THE HIGH COURT OF DELHI AT NEW DELHI

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MAT.APP.(F.C.) 26/2025 & CM APPL. 3995/2025-Stay, CM APPL.
3997/2025-Exp

NEERU MEHTA AND ORS

.....Appellant

Through: Mr.Anurag Jain with Mr.Ujwal Ghai,
Advs.

versus

SACHIN PURI

.....Respondent

Through: Mr.Kunal Kalra, Adv.
Respondent in person.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

23.01.2025

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1. This order will be read in continuation of the order passed on 22.01.2025, when this Court after considering the submissions of learned counsel for the appellants and perusing the record had expressed a prima facie view that there was no infirmity with the impugned order, which directs that the custody of the minor child be handed over by the appellants to her natural guardian and father i.e. the respondent. The matter was, however, adjourned to enable learned counsel for the appellant to obtain instructions as to whether the appellants would be interested in pursuing the appeal.
2. Today, learned counsel for the appellants submits that despite the aforesaid view expressed by this Court, the appellants are still keen to press the appeal.
3. In the light of the aforesaid, we have again considered the submissions of learned counsel for the appellants, who submits that



since the minor daughter is only six and a half years of age and is living in a family atmosphere with her grand-parents and maternal uncle and aunt, it would not be appropriate to disrupt her at this stage.

4. In order to appreciate the aforesaid plea of the appellants, it would be appropriate to refer to the relevant extract of the impugned order:-

*“27. The golden rule which permeates through the custody jurisprudence is the welfare of the child. The rights of the parties are subservient to the interest and welfare of the child. The court must give due regard to the age, gender, nearness of kin to the minor and wishes of the child. In case of **Rosy Jacob vs Jacob A Chakramakkal, (1973) 1 sec 840**; Honble Supreme Court observed that the children are not mere chattels; nor are they mere play-things for their parents. Absolute right of parents over the destinies and the lives of their children has, in the modern changed social conditions, yielded to the considerations of their welfare as human beings so that they may grow up in a normal balanced manner to be useful members of the society and the guardian court in case of a dispute between the mother and the father, is expected to strike a just and proper balance between the requirements of welfare of the minor children and the rights of their respective parents over them.*

*It was observed in **Thrity Hoshic Dolikuka. vs Hoshiam Shavaksha Dolikuka (1982) 2 SCC 544** as under:-*

The principles of law in relation to the custody of a minor appear to be well-established. It is well settled that any matter concerning a minor, has to be considered and decided only from the point of view of the welfare and interest of the minor. In dealing with a matter concerning a minor, the Court has a special responsibility and it is the duty of the Court to consider the welfare of the minor and to protect the minor's interest. In considering the question of custody of a minor the Court has to be guided by the only consideration of the welfare of the minor.

*The Hon 'ble Supreme Court in **Mausami Moitra Gangui vs Jayanti Ganguli, Civil Appeal No. 3500 of 2008** decided on 12th May, 2008 held as under:-*



The principles of law in relation to the custody of a minor child are well settled. It is Irite that while determining the question as to which parent the care and control of a child should be committed, the first and the paramount consideration is the welfare and interest of the child and not the rights of the parents under a statute. Indubitably the provisions of law pertaining to the custody of a child contained in either the Guardians and Wards Act, 1890 (Section 17) or the Hindu Minority and Guardianship Act, 1956 (Section 13) also hold out the welfare of the child as a predominant consideration. In fact, no statute, on the subject, can ignore, eschew or obliterate the vital factor of the welfare of the minor. The question of welfare of the minor child has again to be considered in the background of the relevant facts and circumstances. Each case has to be decided on its own facts and other decided cases can hardly serve as binding precedents insofar as the factual aspects of the case are concerned. It is, no doubt, true that father is presumed by the statutes to be better suited to look after the welfare of the child, being normally the working member and head of the family. yet in each case the Court has to see primarily to the welfare of the child in determining the question of his or her custody. Better financial resources of either of the parents or their love for the child may be one of the relevant considerations but cannot be the sole determining factor for the custody of the child. It is here that a heavy duty is cast on the Court to exercise its judicial discretion judiciously in the background of all the relevant facts and circumstances, bearing in mind the welfare of the child as the paramount consideration.

*This view was again reiterated by the Hon'ble Supreme Court in **Nil Ratan Kundu & Anr. Vs Abhjjit, Civil Appeal No. 4960 of 2008** decided on 8th August 2008.*

33. There is no dearth of love and affection for minor Feshikha, now 6 years old, in the hearts of petitioner/father or respondents viz. maternal grandmother, maternal grandfather and maternal uncles; which the said minor even told to me in her interaction in Chamber in



clear and unqualified terms. Minor Feshikha calls her (1) maternal grandmother/respondent no. 1 as Mummy; (2) maternal grandfather/respondent no. 2 as Papa; (3) petitioner as Delhi Wale Papa. In the interaction with minor Feshikha, she disclosed that at Saharanpur, she normally sleeps with Komal Mami i.e., wife of respondent no. 3 and sometimes with respondent no. 1 with little Harkirat @ Mahe (six months old child of maternal uncle of minor). It is the own version of minor Feshikha told by her in interaction that respondent no. 4, whom she named Sunny Mama, that he resides near by at Saharanpur. Respondent no. 4 is residing at premises different from premises where respondent nos. 1,2 and 3 are residing but his residence is nearby the residence of respondent nos. 1,2 and 3 at Saharanpur. Minor Feshikha stated herself to be student of class one, where 46 children are studying, terming her school to be Skilled School near Bhuteshwar Mandir at Saharanpur and elicited that she leaves home normally at 7 am to go by scooter with driver uncle Ramesh to school and reaches at school by 7.30 am and that school starts at 8 am and school timings end at 1 pm. Even minor was good at mathematics and told the table of 10 and the minor expressed her interest in badminton and ludo while her preference for eatables was for roti, subji, lady finger, aloo (potato), paneer and expressed her desire to become police. Minor Feshikha also disclosed that she was loved most by respondent no. 1 as well as Komal Marui. Also minor Feshikha disclosed Delhi Wale Papa i.e.,_ petitioner loves her and even when in Delhi, takes her (minor Feshikha) to Mall and even took her to Goa. Minor Feshi.kha further explained that in Delhi Dadaji i.e., her grandfather loves her. Minor Feshikha also disclosed that she even goes to Mandir (temple) as well as Gurudwara a: Saharanpur sometimes. Minor Feshikha expressed her desire that she wants to go to school at Saharanpur and wants to stay in vacations and holidays with Delhi Wale Papa i.e., petitioner. Minor Feshikha also expressed that she likes to be at both places i.e., at Saharanpur as well as at the place of Delhi Wale Papa i.e., the petitioner.”

5. In the light of the aforesaid, we are of the considered view that even if the aforesaid plea of the appellants were to be accepted that the minor daughter of the respondent is happily residing



with the appellants at Saharanpur, Uttar Pradesh, once the minor daughter had specifically informed the learned Family Court that she was equally happy with her father, we find no reason to deprive the respondent/father of the custody and pleasure of bringing up his only daughter. Even though we appreciate the fact that the appellants have brought up their minor daughter with great love and care, we are regrettably not able to accept their prayer for retaining the custody of the daughter, when her father is equally keen to take up the said responsibility and the minor daughter has categorically expressed that she is very happy in his company.

6. We may, at this stage, also note that nothing adverse against the conduct of the respondent has been pointed out during the course of arguments.
7. In these circumstances, we find no infirmity with the impugned order, the appeal being meritless is, accordingly, dismissed along with the pending application.

CM APPL. 3996/2025-Delay 72 days & CM APPL. 3998/2025-Delay 30 days in re-filing.

8. Taking into account that the appeal itself is being dismissed on merits, we are not delving into the sufficiency of reasons seeking condonation of delay.
9. The applications are, therefore, dismissed as having been rendered infructuous.

REKHA PALLI, J

SAURABH BANERJEE, J

JANUARY 23, 2025/sr