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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 944/2023 & CM APPL. 29945/2023 **Stay**, CM APPL. 39880/2023 (Vacation of Stay), CM APPL. 51016/202 (Direction), & CM APPL. 22737/2026 (Direction/securing the presence of minor child)

HIMANSHU POKHARIA & ANR.Petitioners

Through: Mr. Ashok Kumar Jha, Advocate
along with petitioner in person.

versus

NEHA CHAUHANRespondent

Through: Ms. Zeba Khair, Ms. Harshita Singhal,
Advocates along with respondent in
person.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **23.04.2026**

1. This hearing has been done through hybrid mode.
2. The present petition under Article 227 of the Constitution of India seeks the following prayers:

a) set aside the impugned order dated 04.02.2023, passed by Sh. Kuldeep Narayan, Ld. Principal Judge, Family Court-02, at Saket, New Delhi, wherein the application for withdrawal under Order XXIII Rule I (I) C.P.C, 1908, filed by the petitioner in Guardianship Petition No.09 of 2022, kept pending, and matter listed for arguments on 07.06.2023 i.e, application for interim custody of the child, under Section 26 of Hindu Marriage Act, 1955, filed by the Respondent.

b). issue direction to Sh.Kuldeep Narayan, Ld. Principal Judge Family Court-02, South-East District, at Saket, New Delhi, thereby directing, to disposed of application for withdrawal under Order XXIII Rule I (I) CPC, filed by the Petitioner.



c). recall / summon the records pertaining to the Petition i.e, Guardianship Petition No.09 of 2021 (Old No.02 of 2018, before Family Court, at Bareilly), pending Trial before the Sh.Kuldeep Narayan, Ld Principal Judge, Family Court-02, at Saket, New Delhi.

d). grant Stay or interim protection, the proceeding arising out of the Guardianship Petition No.09 of 2021, (Old No.02 of 2018, before Family Court, at Bareilly), pending Trial before the Sh.Kuldeep Narayan, Ld Principal Judge, Family Court-02, at Saket, New Delhi.

e) pass any other or further order/s or direction/s as this Hon'ble Court may deem fit and proper, in the facts and circumstances of the aforesaid case in favour of the Petitioner, to meet the ends of justice.”

3. *Vide* the impugned order dated 04.02.2023 passed by the learned Family Court in the Guardianship Petition No. 09/2021, the learned Family Court had directed the application of the respondent/wife seeking interim custody to be considered before petitioner's application for withdrawal of guardianship petition is taken up for consideration. It is a matter of record that the said guardianship petition was transferred from Bareilly, Uttar Pradesh to Delhi by the Hon'ble Supreme Court and subsequent thereto, the petitioner's application for withdrawal was preferred.

4. *Vide* order dated 30.05.2023, the learned Predecessor Bench of this Court had stayed the proceedings before the learned Family Court subject to the petitioner's depositing a sum of Rs. 1 lakh with the Worthy Registrar General of this Court. It is pointed out that the said amount has been deposited.

5. Be that as it may, the present petition is being disposed of with the consent of both the petitioner and respondent who are present in Court today, in the following terms:

(i) The respondent has no objection, if the custody of the minor child is given to the petitioner.



- (ii) The petitioner also undertakes to take care of the overall well-being, including financial and other requirements of the minor child. The respondent shall have no financial responsibility with respect to the minor child.
- (iii) The respondent shall have the interim custody of the minor child for a period of 20 days, every year during Summer Vacations. For the said interim custody visitation, the petitioner shall bring the girl child on the date and time agreed between the parties to a mutually acceptable location preferably at some public place, i.e. Select Citywalk Mall, Saket, Delhi and after the interim custody is over, the respondent shall inform the petitioner the date and time for picking up the girl child from the same place, i.e. Select Citywalk Mall at Saket, Delhi. The respondent shall bear the expense of the minor child during the interim custody period, including travelling expenses.
- (iv) The interim custody period for the first summer vacation of the academic session, i.e., 2026-2027, shall be from 05.06.2026 till 25.06.2026. The petitioner shall drop the child on 05.06.2026 at Select Citywalk Mall, Saket, Delhi at a mutually acceptable time and the respondent will bring the minor child back on 25.06.2026 at Select Citywalk Mall, Saket, Delhi at a mutually acceptable time.
- (v) The parties shall communicate with each other on the following number:

Petitioner's Contact No. 8273624999

Respondent's Contact No. 9611387236

- (v) The petitioner also undertakes to felicitate video/audio calls between the minor child and the respondent on every Sunday and respondent shall



intimate the petitioner in advance, the time for such calls on the aforesaid given numbers.

6. The aforesaid settlement is with regard to the custody of the minor child only and any other proceedings, initiated amongst the parties pending before the concerned Courts/forums shall be determined in accordance with law on its own merits.

7. The Rights and contentions of the parties with respect to the aforesaid proceedings are left open.

8. Needless to state that the parties shall abide by the aforesaid undertaking.

9. The amount of Rs. 1 lakh deposited by the petitioner in terms of order dated 30.05.2023, be released to him along with the interest accrued thereupon, if any.

10. In view of the above, the present petition is disposed of.

11. The learned Family Court shall proceed with the guardianship petition in accordance with law in view of the aforesaid settlement arrived at between the parties.

12. Pending application(s) if any, also stands disposed.

13. Copy of this order be sent to the learned Family Court for necessary information and compliance.

14. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

APRIL 23, 2026/bsr/ah