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

+ **MAT.APP.(F.C.) 214/2026 & CM APPL. 39168/2026**

PRIYANKA

.....Appellant

Through: Mr. Shumonto, Mr. Prabodh Shukla
and Ms. Richa Choudhary, Advocates.

versus

SHIV KUMAR UPADHYAY

.....Respondent

Through: Mr. Durgesh Kumar Pandey, Mr. R.K.
Mishra and Ms. Ritika Davis Franklin,
Advocates.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

% **22.06.2026**

CM APPL. 39169/2026 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

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3. The present Appeal has been filed under Section 28(2) of the Hindu Marriage Act, 1955 (“**HMA**”) read with Section 19 of the Family Courts Act, 1984 against the order dated 18.06.2026 (“**Impugned Order**”) passed by the learned Family Court-02, West District, Tis Hazari Courts, Delhi (“**Family Court**”) in HMA No. 1851/2022.
4. Learned Counsel for the Appellant submitted that the Appellant is the mother and primary custodian of Minor Child aged seven years (“**Minor Child**”). The Minor Child has been in the continuous, uninterrupted care and



custody of the Appellant and the Appellant's family from the day of his birth. He has never, at any point in his seven years, resided independently with the Respondent, who is the father of the Minor Child. The Appellant has borne sole responsibility for the Minor Child's upbringing. By a consent order dated 05.04.2024, the Appellant voluntarily consented to visitation rights for the Respondent on the 1st and 3rd Sunday of every month and weekly video call rights. The Appellant has, without a single instance of non-compliance, facilitated every visitation and video call.

5. Learned Counsel for the Appellant submitted that, on 23.05.2026, the Respondent filed a fresh application under Section 26 of the HMA seeking fifteen days of exclusive interim vacation custody, as well as regular monthly weekend overnight access. *Vide* order dated 08.06.2026, the learned Family Court directed that the Minor Child be permitted to travel to Jim Corbett National Park on 13.06.2026 for five days with the Respondent. The Appellant was granted liberty to accompany the Minor Child and stay in a separate room and was directed to cooperate. The Respondent was further permitted to take the Minor Child for four days at IIT Delhi, including exclusive overnight custody, while the Appellant was permitted to visit the Minor Child for two hours per day and was to be accommodated in a room booked by the Respondent within one kilometre of his residence.

6. Learned Counsel for the Appellant further submitted that, on 12.06.2026, the Appellant filed an application under Section 151 of the Code of Civil Procedure, 1908 before the learned Family Court seeking clarification of the Impugned Order. It was contended that the Impugned Order had incorrectly recorded the Appellant's consent to permit the Respondent to have custody of the Minor Child for a period of nine days, and that certain logistical



aspects, including the Minor Child's overnight custody with the Appellant and the modalities of handover, required clarification. The said application was dismissed on 17.06.2026, and the learned Family Court directed the Appellant to produce the Minor Child before it on 18.06.2026. In compliance with the order dated 17.06.2026, the Appellant produced the Minor Child before the learned Family Court, whereupon the learned Family Court directed the Appellant to hand over the Minor Child to the Respondent in the Children Room of the Court.

7. Learned Counsel for the Appellant submitted that the learned Family Court further recorded in the Impugned Order that the Appellant had deliberately defaulted in complying with the order dated 08.06.2026. It was submitted that the learned Family Court failed to appreciate that the Appellant was not opposed to the Minor Child spending time with the Respondent, and that the application dated 12.06.2026 was moved not with a view to obstructing the order dated 08.06.2026, but *bona fide*, with the sole object of ensuring that the vacation arrangement was implemented in a manner comfortable and conducive to the Minor Child's emotional well-being.

8. Learned Counsel for the Respondent submitted that the Appellant failed to comply with the order dated 08.06.2026, as a consequence of which the Respondent was constrained to cancel the proposed trip to Jim Corbett National Park. It was further submitted that the Minor Child is comfortable and happy in the Respondent's custody, and photographs were placed on record in support thereof. It was accordingly submitted that the present Appeal does not merit consideration and deserves to be dismissed.

9. Having heard learned Counsel for the parties and having perused the material placed on record, this Court is of the view that no ground warranting



interference with the Impugned Order is made out. By consent order dated 05.04.2024, visitation rights were granted to the Respondent, who is the father of the Minor Child. The Respondent, being the natural guardian of the Minor Child, is entitled to maintain a meaningful relationship with him.

10. The principal grievance of the Appellant is that, *vide* the Impugned Order, the learned Family Court modified the order dated 08.06.2026 so as to ensure that the Respondent receives custody of the Minor Child for a period of nine days, while also recording that the Appellant had wilfully disobeyed the order dated 08.06.2026 by failing to hand over custody of the Minor Child to the Respondent. The application dated 12.06.2026 was filed by the Appellant before the learned Family Court in a manner which had the effect of circumventing the order dated 08.06.2026 and delaying the handover of custody of the Minor Child to the Respondent. It stands admitted that the Appellant did not hand over custody of the Minor Child to the Respondent in compliance with the order dated 08.06.2026, as a result of which the proposed visit to Jim Corbett National Park did not materialise.

11. It is well settled that, in matters concerning custody and visitation, the paramount consideration is the welfare and best interests of the child. The learned Family Court, while passing the orders dated 08.06.2026 and 18.06.2026, sought to facilitate meaningful interaction between the Respondent and the Minor Child and to strengthen the bond between them.

12. This Court finds no manifest error in the Impugned Order warranting interference. The Appellant's apprehension that the directions passed by the learned Family Court suffered from logistical gaps did not entitle her to wilfully disobey the orders of the learned Family Court.



13. The learned Family Court, *vide* order dated 08.06.2026, granted custody of the Minor Child to the Respondent for a period of nine days. However, the Appellant did not hand over custody of the Minor Child until 18.06.2026. In these circumstances, the learned Family Court rightly passed the Impugned Order modifying the order dated 08.06.2026, so as to ensure that the Respondent is granted custody of the Minor Child for the full period of nine days. The photographs and submissions relied upon by the Respondent also indicate that the Minor Child is comfortable in the company of the Respondent.

14. In view of the aforesaid analysis, the present Appeal is devoid of merit and is accordingly dismissed, along with the pending application. There shall be no order as to costs.

TEJAS KARIA, J
(VACATION JUDGE)

MADHU JAIN, J
(VACATION JUDGE)

JUNE 22, 2026

Ak/ap