HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

D.B. Civil Miscellaneous Appeal No. 1193/2026
CNR: RJHC010232462026 | URN: CMA / 2506U / 2026

Divya Spouse w/o Sunil Ramawat, D/o Hemdas Ramawat, aged about 28 years R/o Shree Panchmukhi Hanuman Mandir, Gandhi Colony, Jaisalmer, Presently Jethvai Road, Ram Nagar Colony, Jaisalmer, (Rajasthan)

----Appellant

Versus

Sunil Ramawat S/o Babudas Godh S/o Satyanarayan, Aged About 32 Years, R/o Panchmukhi Hanuman Mandir, Gandhi Colony, Jaisalmer (Rajasthan)

----Respondent

For Appellant(s)	:	Ms. Sapna Vaishnav
For Respondent(s)	:	Mr. Deepak Menaria

HON'BLE MR. JUSTICE MUNNURI LAXMAN
HON'BLE MRS. JUSTICE SANGEETA SHARMA

Order

03/08/2026

1. The present civil miscellaneous appeal has been filed against the common order dated 10.02.2026 passed on the application filed by the respondent as well as the application filed by the appellant herein, whereby the appellant was permitted to withdraw the application and the custody of the youngest child was granted to the respondent. The said common order is under challenge before this Court.

2. The facts, primarily disclose that the appellant had moved an application seeking custody of the three children. Upon the respondent’s appearance, it appears from the pleading that the appellant had taken custody of the youngest child, which

according to the respondent was forcibly taken without the knowledge of the respondent.

3. The admitted pleadings of appellant also show that she had taken custody of younger children on 12.05.2025. The reply to the application filed by the appellant seeking change of custody of the youngest child, the appellant pleaded that they found the youngest girl at the temple and she took her custody. The application filed by the respondent seeking change of the custody of the youngest child, who was forcibly taken from the custody of the respondent, was posted for hearing; It appears that the counsel for the appellant moved an application for withdrawal of the appeal in order to frustrate the application filed by the respondent as an interim measures in the pending procedure. The grievance of the appellant is that such application was filed without the instruction of the appellant. However, the contention of the respondent is that the application was consciously filed, in order to frustrate the application filed by the appellant for change of custody of the youngest child, whose custody was not taken in accordance with the law.

3A. Heard both sides.

4. It appears that the application has been filed by the learned counsel for the appellant to withdraw the main proceedings in order to frustrate the application filed by the respondent for change of custody of the youngest child, who was wrongly shifted to the custody of the appellant. Though, such an application has been filed, it is not known whether it was filed by making use of the already signed blank papers of the appellant or not. It is not in

dispute that the application for withdrawal bears the signature of the appellant.

5. We do not inclined to go into such a disputed question of fact for the reason that the learned counsel for the respondent submits that without seeking change of custody of the minor, he is ready to proceed with the application on merits. Recording the same, the impugned order, to the extent permitting the withdrawal of the main proceedings, is set aside. The matter is restored and the Court below is directed to consider the application on merit and we affirm that custody of the youngest child shall be with the respondent till the main orders have been passed. With the said direction, the appeal is disposed of.

6. The counsel for the appellant is also given liberty to move an application for visitation rights, if any, she claims and when such an application is filed, the said, application shall be heard on merits, and dispose of accordingly. With the said direction, appeal is disposed of.

(SANGEETA SHARMA),J **(MUNNURI LAXMAN),J**

35/SHIVANI