



2025:DHC:4635-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 29.05.2025

+ MAT.APP.(F.C.) 212/2025
SH. PUSHPENDERAppellant
Through: Mr. Sanjeev Kumar, Advocate.

versus

SMT. SONIA CHOUDHARYRespondent
Through: Mr. Rohit Kalra, Mr. Ravindra
Kumar and Mr. Bibhuti
Bhushan Mishra, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CM APPL. 35032/2025 (Exemption)

1. Allowed, subject to all just exceptions.

MAT.APP.(F.C.) 212/2025 & CM APPL. 35031/2025

2. This appeal has been filed under Section 19 (1) of the Family Courts Act, 1984 (hereinafter referred to as 'Family Court'), challenging the Order dated 14.05.2025 passed by the learned Judge, Family Court in Guardianship Petition, being G.P No. 88 of 2024, titled *Smt. Sonia Choudhary v. Sh. Pushpender*, whereby the learned Family Court records that as the daughter of the parties wants to stay with the appellant/husband, therefore, the custody of the daughter was directed to be handed over to the appellant/husband, with the consent



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of the respondent herein/wife. As far as the son of the parties is concerned, the *interim* custody was allowed to be retained with the mother, that is, the respondent herein.

3. With the consent of the learned counsels for the parties, the appeal is being considered for final disposal at this stage itself.

4. The grievance of the appellant/husband is that while the wishes of the daughter were considered, and then with the consent of the respondent/wife, the *interim* custody of the daughter was handed over to the appellant/husband, the learned Family Court did not make any such effort to interact with the son before granting the *interim* custody of the son to the respondent/wife. He submits that the girl child is only 14 years, while the boy child is 9 years old and, therefore, separating them at this age would not be in their welfare.

5. On the other hand, the learned counsel for the respondent/wife, who appears on an advance notice of this appeal, submits that the children were with the respondent/wife and it is only because of the tutoring by the appellant/husband, that the daughter wanted to reside with the appellant/husband, and hence, the respondent/wife did not object to the same so that the daughter can be happy. He further submits that as far as the son is concerned, he is very happy with the respondent/wife, and therefore, there is no reason to interfere with the *interim* custody of the son.

6. We have considered the submission made by the learned counsels for the parties.

7. A perusal of the Impugned Order does not reflect the



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application of mind by the learned Family Court on the welfare of the children. The learned Family Court has simply acted on the wishes of the daughter to hand over the *interim* custody of the daughter to the appellant/husband. At the same time, the *interim* custody of the son has been allowed to be retained by the respondent/wife, without ascertaining his wishes and also without determining what would be in his welfare.

8. Keeping in view the above, we set aside the Impugned Order and direct that the learned Family Court shall take up the above Guardianship Petition on 04th June, 2025.

9. The respondent/wife shall bring the boy child to the learned Family Court, and the learned Family Court may interact with the boy child before passing an appropriate Order, in accordance with law, regarding the *interim* custody of the boy child.

10. In the *interregnum*, while the *interim* custody of the boy child shall remain with the respondent/wife, however, she shall allow the boy child to have video conferencing with the appellant/husband for at least half an hour, everyday at 7:00 P.M.

11. The appeal is disposed of in the above terms. The pending application also stands disposed of.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 29, 2025
Sc/kz/VS

[Click here to check corrigendum, if any](#)