



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 06.07.2026

Date of decision: 08.10.2026

CNR No. : DLHC010260392026

+ MAT.APP.(F.C.) 205/2026

RAVNEET KAUR SACHDEVA

.....Appellant

Through: Ms. Meenakshi Arora, Sr. Advocate
with Mr. Vikram Singh Panwar,
Ms. Shreya & Ms. Nanakey, Advs.

versus

RISHIPREET SINGH SACHDEVA

.....Respondent

Through: Mr. Prashant Mendiratta, Ms. Neha
Jain, Ms. Aditi, Ms. Vaishnavi,
Ms. Vaidhi, Advs. with Respondent
in-person.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

MAT.APP.(F.C.) 205/2026, CM APPL. 38761/2026 & CM APPL. 39317/2026

1. The present appeal has been filed under Section 19 of the Family Courts Act, 1984, assailing the Impugned Order dated 06.06.2026, passed by the learned Family Court, New Delhi District, Patiala House Courts, in G.P. No. 37/2025, whereby, the learned Family Court granted the Respondent/father overnight visitation and interim custody of the minor son, for eight days during the summer vacation, i.e., from 13.06.2026 to 21.06.2026.



2. Briefly stated, the marriage between the Appellant and the Respondent was solemnized on 15.05.2005 according to Sikh rites and customs at Gurudwara Moti Bagh Delhi. Out of the wedlock, two sons were born, the major son was born on 05.04.2007 (presently aged about 19 years) and the minor son was born on 15.12.2014 (presently aged about 12 years). Subsequently, in October 2020, Appellant came back to her paternal home along with the two sons who were minor at that time. Since then both the children have been residing with the Appellant/mother. On 10.05.2021, while the family had gone to attend a condolence meeting at the Respondent's house, the elder son did not return with the Appellant and has, since then, remained with the Respondent/Father. The minor son has continued to live with the Appellant.

3. Thereafter, a petition for dissolution of marriage was filed by the Appellant, and as a counterblast to the divorce petition the Respondent filed a petition on 27.11.2025 under Section 7, 10 and 25 of the Guardians and Wards Act, 1890 seeking custody of the minor son. During the pendency of these proceedings, the Respondent filed repeated applications seeking visitation of minor son. On every occasion that the learned Family Court interacted with the minor child, and he expressed his reluctance to meet the Respondent, even then the learned Family Court permitted the visitation which remained supervised and confined to the daytime.

4. The Respondent moved an application dated 13.01.2026 under Section 12 of the Guardians and Wards Act in the pending guardianship petition, seeking interim visitation of the minor son. This application came to be decided by the impugned Order dated 06.06.2026. While deciding the said



application, the learned Family Court interacted with the child and recorded that he is intelligent, understands the proceedings of the matter, and had expressed his wish to meet his elder brother, but a reluctance to stay overnight with the Respondent.

5. Despite this finding, the learned Family Court made two arrangements, firstly, granted overnight visitation of the minor child to Respondent whereby the Appellant was directed to handover the minor son on every 1st, 3rd and 4th Saturdays to the Respondent at 10:00 A.M at DLF, Promenade Mall, Vasant Kunj, New Delhi and Respondent was directed to handover back the custody of the minor son at same place on every Sunday by 4:00 P.M. Secondly the learned Family Court directed interim custody of the child to the Respondent for eight days during the summer vacation from 13.06.2026 to 21.06.2026, and directed the Respondent to handover back the custody of the minor child to the Appellant on 21.06.2026 by 4.00 P.M.

6. Aggrieved by the said order, the Appellant preferred the present appeal. The appeal was first listed on 12.06.2026, this Court did not stay the impugned order but modified the manner of its implementation, and directed that the arrangement granted would be reviewed on 17.06.2026. In the arrangement the Court directed after considering the fact that the elder son was visiting India from the United Kingdom, in order to facilitate the brother's time together it was directed that the custody of minor child shall remain with the Respondent from 13.06.2026 to 14.06.2026, for an overnight stay and Respondent would arrange a stay at a hotel instead of his own residence, and that the exchange of custody would take place at DLF Promenade Mall as already directed *vide* the impugned order dated



06.06.2025. During this stay, Appellant was permitted to talk to the child *via* WhatsApp/video call.

7. Further the Respondent filed an application under Section 151 of the Code of Civil Procedure, 1908, thereafter registered as CM APPL. 39316/2026, narrating that on 13.06.2026, custody of the minor son was handed over to the Respondent at about 11:30 A.M., later than the time fixed. Later that day, while the Respondent along with both the sons were together at Ambience Mall, Vasant Kunj, the minor son left on his own at about 3:30 P.M. and reached the Appellant's residence at about 3:45 P.M. in an auto-rickshaw. As a result, the overnight stay directed *vide* the Order dated 12.06.2026 was not complied with in full. In a series of events of 13.06.2026, Respondent alleges that the child had been tutored and influenced to leave the visitation, and all such events reflected a pre-existing plan on the part of the Appellant's family. Further, the Respondent sought several directions, including preservation of CCTV footage of the two malls, call detail records, and the electronic devices used by the child.

8. When the matter was listed on 17.06.2026, this Court recorded the partial non-compliance of the Order dated 12.06.2026 and directed the Appellant to file her reply to the Respondent's application. Subsequently, the Appellant filed a reply denying the said allegations, wherein it was explained, among other things, that the visit of the Appellant's family to the mall a day earlier, on 12.06.2026, was for the purchase of an iPhone and an Apple Watch, supported by invoices, and had no connection with the child leaving the visitation on 13.06.2026. Thereafter, the Appellant opposed the prayers for preservation of call records and CCTV footage as being in the nature of a



roving and fishing inquiry, and reiterated that the wishes of the child ought to be respected and visitation confined to her residence. On 24.06.2026, this Court directed that the two brothers be permitted to meet independently, thereafter the matter was listed before the Roster Bench.

9. Learned Senior Counsel for the Appellant submits that the learned Family Court, despite having recorded that the child was mature, intelligent and unwilling to stay overnight with the Respondent, proceeded to grant overnight visitation and interim custody, contrary to Section 17(3) of the Guardians and Wards Act, 1890, placing reliance on **Gayatri Bajaj v. Jiten Bhalla, (2012) 12 SCC 471**, and **Mamta alias Anju v. Ashok Jagannath Bharuka, (2005) 12 SCC 452** and stating that it is a settled position of law that the wishes of a child capable of forming an intelligent preference must be given due weight. Further submits that the Respondent had never sought overnight custody in his application dated 13.01.2026, and that the learned Family Court had, therefore, exceeded the relief that was actually claimed.

10. *Per contra*, the learned counsel for the Respondent, submits that the Respondent is the biological father of the child and that a consistent denial of the opportunity to spend time with him would permanently harm the father-son relationship. Further submits that the events of 13.06.2026 were a consequence of the influence exercised upon the child by the Appellant's side, and it was for this reason that CM APPL. 39316/2026 had been moved.

11. We have heard the learned counsel for the parties and perused the material placed on record.



12. The question, thus, arises for consideration before this Court is what arrangement, at this stage, would best serve the welfare of the child, having regard to the events that have taken place during the pendency of this appeal.

13. It is well settled that in matters concerning custody and visitation, the paramount consideration is of the welfare of the child. Section 17(3) of the Guardians and Wards Act, gives statutory recognition to this principle and requires the Court, while considering the welfare of a minor, to have regard to the wishes of the minor when he is old enough to form an intelligent preference. In **Gayatri Bajaj v. Jiten Bhalla, (2012) 12 SCC 471**, the Supreme Court declined to disturb the wishes of children who did not want to meet a parent, observing that the welfare of the child, and not the desire of the parent, must guide the Court. The relevant paragraph of the judgment reads

“14. From the above it follows that an order of custody of minor children either under the provisions of the Guardians and Wards Act, 1890 or the Hindu Minority and Guardianship Act, 1956 is required to be made by the court treating the interest and welfare of the minor to be of paramount importance. It is not the better right of either parent that would require adjudication while deciding their entitlement to custody. The desire of the child coupled with the availability of a conducive and appropriate environment for proper upbringing together with the ability and means of the parent concerned to take care of the child are some of the relevant factors that have to be taken into account by the court while deciding the issue of custody of a minor. What must be emphasised is that while all other factors are undoubtedly relevant, it is the desire, interest and welfare of the minor which is the crucial and ultimate consideration that must guide the determination required to be made by the court.”



14. Similarly, in *Nil Ratan Kundu v. Abhijit Kundu*, (2008) 9 SCC 413 the Supreme Court set aside the orders handing custody of the minor child to his father, holding that welfare of the child matters more than parent's right and that a child is old enough to form an intelligent preference, must have his wishes ascertained before custody is decided. The Court itself interviewed the six-year-old child, who refused to go with his father and wished to stay with his maternal grandparents, and on that basis dismissed the father's custody application.

15. We find that the arrangement directed *vide* the Order dated 06.06.2026, being confined to overnight visitation and interim custody for eight days during summer vacation between 13.06.2026 and 21.06.2026, was, in any event, overtaken and modified by the subsequent Order of this Court dated 12.06.2026, and that period has since expired. The Order dated 06.06.2026 has, accordingly, been rendered *infructuous*, and it is neither necessary nor appropriate to examine its correctness on merits any further. Moreover what survives for our consideration is the arrangement that ought to govern visitation between the Respondent and the child going forward, and it is that arrangement, as reflected in the Order dated 12.06.2026, which requires modification.

16. We may note that the arrangement put in place by the Order dated 12.06.2026, permitting overnight custody to the Respondent, has not worked in practice. It is an admitted position that the child left the company of the Respondent on his own on 13.06.2026, and the overnight stay contemplated by that order could not be completed. Whatever the precise reason for the child's conduct, the fact remains that overnight custody away from the



Appellant, in the present circumstances, has caused the child evident distress rather than achieving the object of enabling him to create bond with the Respondent.

17. With a view to ascertain the wishes of the child ourselves, we interacted with a minor child in the chamber. We find him to be an intelligent and mature child for his age, well able to understand the nature of these proceedings. He has candidly stated that he does not wish to stay overnight with the Respondent, though he was not averse to visitation. We see no reason to disbelieve what the child has told us. His preference is also consistent with what he has expressed to the Family Court, and to this Court, on more than one occasion on this aspect.

18. Having regard to the above, we are of the view that the direction for overnight stay of the child with the Respondent, as contained in the Order dated 12.06.2026, cannot continue, and is accordingly set aside, the child having expressed his unwillingness to the same, both before the Family Court and before this Court.

19. At the same time, we are conscious that the Respondent is the biological father of the child, and that it is in the interest of the child's own upbringing, his mental, physical and psychological development that his bond with the father/Respondent be preserved and, where possible strengthened. Denying the Respondent all opportunity to meet the child is not a course that would serve the child's welfare either. We are therefore of the view that a structured and supervised visitation, in a setting familiar, would allow the relationship between the Respondent and the child to develop gradually, without causing the child any distress witnessed in the recent past.



20. We accordingly, direct that the Respondent shall be entitled to meet the child on the 1st and 3rd Saturday of every month, between 12:00 P.M. and 2:00 P.M., before the concerned Family Court, in the presence of child counselor. The Appellant shall not remain present in the room during the said visitation. It is also made clear that in case, any of the visitation is missed, prior intimation shall be given through Whatsapp message or e-mail and in that eventuality, the missed visitation shall be substituted by the following Sunday. The video-calling arrangement between the Appellant and the child, as directed *vide* Order dated 12.06.2026, shall continue unaffected.

21. We hope and trust that both the parents shall comply with the directions contained in this order in its true letter and spirit.

22. It shall be open to the concerned Family Court, on an assessment of how the child responds to this arrangement over a period of time, to pass any further orders, including expansion of the visitation, as may be found appropriate for the welfare of the child.

23. As regards CM APPL. 39316/2026, since the Respondent has, through his counsel, withdrawn the said application on 06.07.2026 with liberty to approach the appropriate forum for the reliefs claimed therein, including preservation of any electronic or CCTV evidence, the Order dated 06.06.2026 stands rendered *infructuous* and requires no further adjudication on merits.

24. The Order dated 12.06.2026 stands modified to the extent indicated in paragraph 22 above and CM APPL. 38761/2026 do not survive and is disposed of accordingly.



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25. The parties shall appear before the concerned Family Court on 12.10.2026 for further proceedings, including implementation of the visitation schedule directed above. The appeal, along with all pending applications, stand disposed of in the aforesaid terms.

**VIVEK CHAUDHARY
(JUDGE)**

**RENU BHATNAGAR
(JUDGE)**

OCTOBER 08, 2026
pk/tr