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

*Date of Decision: 11.09.2025*

+ CONT.CAS(C) 876/2025

VIVEK MALHOTRA

.....Petitioner

Through: Mr. Prashant Mendiratta, Mr. Akshat Kaushik, Ms. Sakshi Jain and Ms. Vaishnavi Saxena, Advs. with Petitioner in person.

versus

SHILPA SOOD

.....Respondent

Through: Mr. Rishi Manchanda, Mr. Siddharth Mullick and Mr. Lakhan Gupta, Advs. with Respondent in-person.

+ MAT.APP.(F.C.) 426/2024, CM APPL. 73344/2024, CM APPL. 15953/2025, CM APPL. 15954/2025, CM APPL. 16887/2025, CM APPL. 16890/2025 and CM APPL. 40087/2025

SHILPA SOOD

.....Appellant

Through: Mr. Rishi Manchanda, Mr. Siddharth Mullick and Mr. Lakhan Gupta, Advs. with Appellant in-person

versus

VIVEK MALHOTRA

.....Respondent

Through: Mr. Prashant Mendiratta, Mr. Akshat Kaushik, Ms. Sakshi Jain and Ms. Vaishnavi Saxena, Advs. with Respondent in-person

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR**

**J U D G M E N T ( O R A L )**



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**ANIL KSHETARPAL, J.**

1. This common order shall dispose of MAT.APP.(F.C.) 426/2024 & CONT.CAS(C) 876/2025. The Appeal has been preferred by the Appellant/Mother of the minor child challenging the interlocutory order dated 23.09.2024 [hereinafter referred to as “Impugned Order”] passed by the learned Family Court, whereby unsupervised visitation rights were granted to the Respondent/father on the first and fourth Saturday of every month from 02:00 PM to 05:00 PM. The Contempt Petition has been filed by the Respondent alleging that the Appellant has obstructed implementation of the said order by continuing to interfere during visitation hours particularly by holding the minor child’s hand during visitation at the mall.

2. The facts, in brief, are that the Appellant and Respondent are estranged spouses. Out of their wedlock, a male child was born on 26.09.2019, and has since remained in the custody of the Appellant. In proceedings instituted under the Guardians and Wards Act, 1890, the Respondent sought custody as well as visitation rights. Initially, *vide* order dated 30.08.2022, the Family Court permitted the Respondent limited physical visitation on the third Saturday of every month and virtual interaction through video calls twice a week.

3. Pursuant to the directions issued by this Court on 30.05.2023, the Family Court referred the parties to the Court Counsellor to supervise the visitation and to ascertain the comfort and well-being of the minor child. The Counsellor, in her report dated 19.09.2023, recorded that the child was “very much comfortable” in the presence of the father and continued to interact and play with him without hesitation. It was, however, noted that the child displayed separation



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anxiety whenever the mother attempted to step outside the visitation room, insisting on her presence during the interaction.

4. Subsequently, the matter was referred to the Child Psychologist, Department of Psychiatry, AIIMS, New Delhi. The report dated 12.12.2023 observed that the child, having grown up entirely in the company of the mother, initially exhibited discomfort with the father's presence but gradually showed improvement in follow-up sessions, becoming receptive to interaction and accepting gifts. It was further noted that the child remained clingy towards the mother and the mother also displayed a protective attitude, being reluctant to leave the child alone during sessions. Consequently, individual interaction between the father and the child, without the mother's presence, could not take place during the said assessment.

5. In light of the reports submitted by the Counsellor and the Child Psychologist, the Family Court considered it appropriate to enhance the scope of visitation. Accordingly, *vide* the Impugned Order dated 23.09.2024, the Family Court directed that the Respondent shall be entitled to unsupervised visitation with the minor child on the first and fourth Saturday of every month, between 02:00 PM to 05:00 PM, at a neutral venue. It is this arrangement which has been challenged in MAT.APP.(F.C.) 426/2024 by the Appellant, while the connected contempt petition has been filed by the Respondent alleging obstruction in the implementation of the said arrangement.

6. Learned counsel for the Appellant assailed the Impugned Order dated 23.09.2024 primarily on the ground that the minor child, being barely five years of age, continues to exhibit discomfort in the absence of the mother, and that compelling unsupervised interaction with the



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father is contrary to the child's welfare. It was contended that the Respondent has, in the past, displayed aggressive behaviour, and on one occasion even attempted to forcibly pull the child, thereby endangering his safety.

7. Reliance was placed upon the report of the Child Psychologist, AIIMS, to urge that the child has not yet developed the requisite level of comfort with the father to justify unsupervised visitation. It was further argued that the Respondent has not contributed towards the maintenance or upbringing of the minor and lacks a permanent residence in Delhi, which renders the arrangement impracticable.

8. *Per contra*, learned counsel for the Respondent supported the Impugned Order and submitted that the limited supervised visitation granted earlier had not facilitated any meaningful bonding between the father and the son. It was argued that the reports of both the Court Counsellor and the Child Psychologist unmistakably demonstrate that the child has been gradually developing comfort with the father and that more frequent and independent interaction is in the child's best interest.

9. It was contended that the Appellant has been deliberately obstructing the interaction between the father and the child and has been tutoring the child against him. It was also submitted that the Appellant continues to interfere during visitation, as is evident from the Contempt Petition, wherein it is alleged that she holds the child's hand throughout the visitation hours in the mall, thereby defeating the spirit of the order under challenge.

10. We have given our thoughtful consideration to the rival submissions and have carefully perused the record, including the



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reports submitted by the Court Counsellor as well as the Child Psychologist at AIIMS. At the outset, it must be borne in mind that while adjudicating disputes pertaining to custody or visitation, the paramount consideration before the Court is the welfare and best interest of the child, and not the competing rights of the parents. The law is well settled that a child of tender years requires the love, affection, and guidance of both parents, and the estrangement of the parents ought not to deprive the child of the emotional security and healthy environment that comes from an active relationship with both father and mother.

11. Unfortunately, in cases where parents are embroiled in marital discord, it is often seen that the child becomes the subject of constant tutoring and influence by either side. Such conduct, instead of serving the child's welfare, inflicts irreparable harm upon his or her personality, self-confidence, and emotional growth. It is indeed disheartening that even educated parents, who ought to be more conscious of their parental responsibilities, engage in such conduct to the detriment of their own children. The Court cannot countenance this practice and must impress upon the parties that it is their solemn duty to allow the child to grow in a free and nurturing atmosphere, unburdened by the acrimony between the parents.

12. Applying the aforesaid principles to the facts at hand, it is evident from the material on record that the minor child is in the exclusive care and custody of the mother and, as a natural corollary, has developed greater attachment and dependence upon her. At the same time, the reports of both the Counsellor and the Psychologist indicate that the child is gradually becoming comfortable in the



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company of the father and has not shown any signs of hostility or rejection towards him. The difficulty primarily arises from the child's separation anxiety and the mother's overprotective presence during visitation, which hinders the possibility of independent interaction between the father and the child.

13. The learned Family Court, while considering these aspects, thought it fit to grant unsupervised visitation to the father for limited durations on specified days, so as to enable a gradual and natural bond to develop between him and the child. The present Appeal seeks interference with the said arrangement, while the connected Contempt Petition alleges obstruction in the implementation of those directions. Having considered the overall circumstances, we are of the view that no interference with the Impugned Order is called for at this stage. Any modification in the visitation arrangement, if warranted by subsequent events or the evolving needs of the child, can be appropriately considered by the learned Family Court, which remains the competent forum to monitor and regulate such arrangements.

14. In view of the foregoing discussion, we are of the considered opinion that the Impugned Order dated 23.09.2024 does not warrant interference in appellate jurisdiction. The arrangement directed therein is in consonance with the welfare of the minor child and seeks to progressively facilitate a healthy relationship with both parents. Insofar as the grievance of the Respondent-Father with respect to alleged obstruction in the exercise of visitation rights is concerned, the same is in the nature of an implementation issue, which appropriately falls within the domain of the Family Court. The parties are, therefore, relegated to their remedy before the Family Court for seeking any



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modification, clarification, or enforcement of the Impugned Order, as may be necessary in the facts and circumstances.

15. Accordingly, MAT.APP.(F.C.) 426/2024 as well as CONT.CAS(C) 876/2025 are disposed of in the above terms. The pending applications also stand disposed of.

16. A photocopy of the order passed today be kept in the connected matter.

**ANIL KSHETARPAL, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**

**SEPTEMBER 11, 2025**

s.godara/pl