



2025:DHC:1716-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 17.03.2025

+ MAT.APP.(F.C.) 98/2025 & CM APPL. 13630/2025

NITESH ARORAAppellant

Through: Mr. Shashi Shanker and Ms.
Pooja Mohanani, Advocates.

versus

ISHA ARORARespondent

Through: Mr. Vatsal Kumar, Sr.
Advocate with Ms. Aayushee
Priya, Advocate along with
Respondent in-person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

1. This appeal has been filed by the appellant, challenging the Order dated 01.03.2025 passed by the learned Judge, Family Court, Central District, Tis Hazari Court, Delhi in G.P. No.16 of 2017 titled "*Nitesh Arora vs. Isha Arora*" by which the learned Family Court has dismissed the application filed by the appellant praying for the custody of the child from 05.03.2025 till 31.03.2025.

2. The appellant had stated that the child, who is aged around 9 years, would be finishing with his school examination and would be on vacation from 05.03.2025 till 31.03.2025 for the change of the academic session. He, therefore, prayed that the custody of the child be allowed to the appellant during the *interim* period.



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3. The learned Family Court, however, rejected the application by finding that the appellant is filing repeated applications which is only delaying the adjudication of the main guardianship petition. It was further noted that the respondent is taking good care of the child.

4. The learned counsel for the appellant, in support of the present appeal, has placed reliance of the Order dated 07.03.2024 passed by the learned Family Court, to submit that last year a similar application was made by the appellant, and the learned Family Court had granted to the appellant the custody of the child for half of the vacation, that is, between 09.03.2024 and 23.03.2024. He further submits that the appellant has also applied for leave from his employer which has been granted and the appellant would be working from home if the child is allowed to visit and stay with him.

5. On the other hand, the learned counsel for the respondent, on instructions from the respondent who is present in Court, submits that by an Order dated 23.03.2021, an *interim* arrangement for the purpose of visitation had been made with the consent of the parties. The said Order is being complied with, whereunder the appellant is already getting visitation rights over the child on the 1st, 3rd and 5th Saturday of every month. He submits that the child suffers psychologically once he visits the appellant as the appellant is more interested in creating evidence of him looking after the welfare of the child and blaming the respondent for the matrimonial litigation between them.

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

7. The *interim* arrangement arrived at between the parties on



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23.03.2021 is only for the day visitation for the appellant on the 1st, 3rd and 5th Saturday of a month. The child, who is only around 9 years of age, is admittedly going to be on a vacation for the change of the academic session between 05.03.2025 and 31.03.2025. Though the learned counsel for the respondent has submitted that there are judo classes and also English grammar classes which the child would undertake in this intervening holiday period, we are of the opinion that the welfare of the child would lie with meeting his father and spending some time with him during this period. These classes can always be taken up at a later stage, the child being very young.

8. On the plea of the respondent that the appellant is more interested in creating evidence of him looking after the welfare of the child rather than actually spending quality time with him, we direct that the period of custody granted to the appellant will not be used by him as evidence in the guardianship petition that is pending before the learned Family Court.

9. As far as the plea of the learned counsel for the respondent that the appellant is filing repeated applications which is delaying the adjudication of the petitions which are pending before the learned Family Court, we direct that the appellant should move a consolidated application for a permanent *interim* arrangement of visitation and custody before the learned Family Court and the learned Family Court should consider such an application on its own merit so that the filing of the repeated applications on each vacation or on each occasion can be avoided.

10. Keeping in view that the child would also have to readjust to the



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new academic session and make preparation for the same and also spend some vacation time with the respondent, we direct that the appellant shall be entitled to take the custody of the child from the respondent on 18.03.2025 at 10:00 AM from the residence of the respondent. The child will remain in the custody of the appellant till 25.03.2025 and he shall handover the custody of the child to the respondent by 06:00 PM at the residence of the respondent on the said day. Further, while the child is in the custody of the appellant, the appellant shall allow a video call at least once a day between the child and the respondent at 08:30 PM.

11. The appeal along with pending application is disposed of with the above directions.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MARCH 17, 2025

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Click here to check corrigendum, if any