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

+ CM(M) 211/2022

ADITI BAKHT

..... Petitioner

Through: Mr. Prashant Mendiratta and Mr.
Jasmeet S. Chadha, Advs.

versus

ABHISHEK AHUJA

..... Respondent

Through: Ms. Asmita Narula and Ms. Apoorva
Maheshwari, Advs.

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Date of Decision: 11th July, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CM APPL. 30072/2022 (clarification)

The present application has been filed with the following prayers:

(a). Clarify /modify the time stipulated in para 15 of the Judgment dated 3.6.2022 for deciding the Guardianship Petition within four weeks, by enhancing the time to such an extent, as may be deemed fit and proper by this Hon'ble Court as well as to direct that the interim application be decided as expeditiously as possible, preferably within a period of 4 to 6 weeks.

(b). Permit the petitioner to withdraw the consent given for visitation as observed in para 12 of the Judgment dated 3.6.2022 for the reasons mentioned in the present application.

(c). Direct the Principal Judge, Family Court, South East, Saket Courts, to decide the interim visitation application under Section 12 of Guardians & Wards Act without being influenced by the consent given by the petitioner for the visitation as observed in para 12 of the Judgment dated 3.6.2022.

The CM (M) 47/2022 was disposed of vide order judgment dated 3rd June, 2022 with following directions:

“12. Thus, I consider that the orders dated 21.08.2021, 22.12.2021 and 04.03.2022 are liable to be set aside in the interest of justice and for the purpose of restoring faith of both the parties in the system of administration of justice. Thus, both the petitions are disposed of with the following directions:

i. Orders dated 21.08.2021, 22.12.2021 and 04.03.2022 are set aside.

ii. The Guardianship Petition no.8/2021 is restored to its original number.

iii. The Principal judge, Family Court, South-East, Saket shall keep the matter with himself/herself and decide the same in accordance with law without being influenced by the earlier orders passed by the learned Judge, Family court, South-East District, Saket and any expression or observation made by this court.

iv. It is agreed between the parties that till the Guardianship Petition no.8/2021 is finally decided by learned Principal Judge, Family Court, the father respondent shall have the visitation rights on every Wednesday and Friday from 3:00 p.m to 6:00 p.m. with the same arrangement of picking up and dropping.

v. In addition to that as agreed between the parties, there shall be eight hours visitation from 10 a.m. to 6 p.m. on the following dates:

04.06.2022 (Saturday)

12.06.2022 (Sunday)

18.06.2022 (Saturday)

25.06.2022 (Saturday)

26.06.2022 (Sunday)

02.07.2022 (Saturday)

09.07.2022 (Saturday)

vi. The father shall have also visitation right on the birthday of the child i.e. 15.06.2022, which incidentally falls on Wednesday for four hours from 2 p.m. to 6 p.m.

vii. The petitioner mother may travel during the month of June, 2022 along with the child. However, the petitioner mother shall share the itinerary with the respondent father. If due to such travel any visitation with the father is missed, it shall be compensated in the following terms:

(a) One visitation for three hours shall be compensated on 07.07.2022 (Thursday) from 3 p.m. to 6 p.m. (respondent's father's birthday-Paternal Grandfather's Birthday) and other three visitations shall be compensated on 28.06.2022 (Tuesday) from 10 a.m. to 6 p.m."

Learned counsel for the petitioner submits that in judgment dated 3rd June 2022, this Court had requested to the learned Principal Judge, Family Courts to dispose of the Guardianship Petition no.8/2021 as expeditiously as possible preferably within four weeks. Learned counsel for the petitioner further submits that the period of four weeks is too short as it will be impossible for the learned Principal Judge, Family Courts to decide the Guardianship Petition no.8/2021 considering the requirement of recording of evidence.

This Court feels that it is not for the petitioner to ask for the extension of time. However, if the learned Principal Judge, Family Courts would feel that it is not possible to dispose of the petition within four weeks, the learned Principal Judge, Family Courts may write to this Court seeking extension of time.

Another prayer in the petition has been made whereby the petitioner has sought to withdraw the consent given by her regarding the visitation rights and thus for modification of order. The perusal of order indicates that the visitation rights as agreed upon between the parties were only till 9th July, 2022. Since the period has already elapsed, the prayer regarding clarification or modification of orders stands infructuous.

Learned counsel for the petitioner further submits that in fact, four visitation rights granted by this Court could not fructify as petitioner defeated the same.

As per judgment dated 3rd June, 2022, the visitation rights on every Wednesday and Friday from 3:00 pm to 6:00 pm is to operate till

Guardianship Petition no.8/2021 is decided by the learned Principal Judge, Family Courts. However, it is again clarified that the learned Principal Judge, Family Courts shall decide the Guardianship Petition no.8/2021 as per the facts placed before it and any observations made by this Court in judgment dated 3rd June, 2022 shall not tantamount to any expression on merits of the case.

It is also clarified that interim application under Section 12 CPC, 1908 filed by the respondent/father herein shall also be decided by the learned Principal Judge, Family Courts independently of any directions passed by this Court in judgment dated 3rd June, 2022.

With these observations, the present application stands disposed of.

DINESH KUMAR SHARMA, J

JULY 11, 2022

Pallavi