



2025:DHC:6783-DB



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

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*Judgment reserved on: 04.08.2025**Judgment pronounced on: 13.08.2025*

+ MAT.APP.(F.C.) 278/2025, CM APPL. 47034/2025, CM APPL. 47035/2025, CMAPPL. 47036/2025 & CM APPL. 47037/2025

HITESH MEHTA

.....Appellant

Through: Mr. Hemant Jain, Mr. Naman Jain, Mr. Arpit Sharma and Mr. Karan Ahuja, Advs.

versus

PRIYA MEHTA

.....Respondent

Through: *Nemo.***CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR****J U D G M E N T****ANIL KSHETARPAL, J.**

1. The Appellant assails the correctness of the Order dated 19.05.2025¹ passed by the learned Family Court, Delhi, whereby the Guardianship Petition filed under Section 25 of the Guardians and Wards Act, 1890², seeking permanent custody of his minor child, Master Shaurya, was dismissed. The Family Court, however, granted the Appellant limited visitation rights, restricted to the first and third Saturday of each month, between 3:00 P.M. and 5:00 P.M., within the Children's Room at the Court premises.

¹ Hereinafter referred to as 'Impugned Order'

² Hereinafter referred to as 'the Act'

**FACTUAL MATRIX:**

2. The brief facts leading to the present Appeal, as pleaded, are that the marriage between the parties was solemnized on 11.11.2016 in accordance with Hindu rites and ceremonies in Delhi. Out of the said wedlock, a male child was born on 11.04.2018, who was diagnosed with the medical condition of clubfoot at birth, which condition was duly treated and cured within two to three years through consistent medical care.

3. The case of the Appellant, before the Family Court, was that despite occasional matrimonial discord between the parties, particularly during the Covid-19 pandemic, the family life of the parties had continued in a functional manner. It was contended that the Respondent would frequently reside at her parental home for extended periods, during which time the Appellant and his parents were solely responsible for the minor child's care. The Appellant pleaded that the Respondent left the matrimonial home on 27.10.2021 and lodged a police complaint the very next day. Despite subsequent efforts by the Appellant and his family to maintain contact, the Respondent not only failed to return to the matrimonial home but also retained exclusive custody of the child. The Appellant, claiming concern for the minor child's medical needs and overall well-being, sought custody on the ground that he and his family were better placed to provide a stable and secure upbringing to the minor child.

4. The Respondent, before the Family Court, opposed the Petition and denied the Appellant's averments. It was contended that the minor child suffers not only from clubfoot, but also from a squint eye



condition, for which he underwent surgery in October 2021. Upon seeking financial assistance for the said procedure, the Appellant allegedly declined support. The Respondent further alleged that the relationship between the parties was never cordial, and that she was subjected to persistent harassment and dowry-related taunts by the Appellant and his family. It was stated that while the Appellant has been employed for several years, the Respondent was compelled to take up part-time employment for a brief period in 2021. Following termination from her job in November 2021, the Respondent and the minor child were allegedly ousted from the matrimonial home and have since resided at her parental home. It was further contended that the minor child has, since October 2021, remained in Respondent's exclusive custody, and that she alone has borne the responsibility of his education, healthcare, and daily needs, without any financial or emotional support from the Appellant and therefore, the petition filed by the Appellant seeking custody deserved to be dismissed.

5. The Family Court, upon considering the pleadings and material on record, framed the core issue as to whether the welfare and best interest of the minor child would be better served by transferring his custody from the Respondent-mother to the Appellant-father. During the proceedings, the Family Court interacted with the minor child, then aged seven years, and recorded his clear preference to remain with his mother. The child was found to be well-adjusted, comfortable, and emotionally secure in his existing environment, with no material to suggest that the current custodial arrangement was detrimental to his welfare. It was observed that the Appellant had failed to substantiate any allegations of neglect on Respondent's part.



On the contrary, the Respondent was found to be diligently attending to the child's special medical and educational needs, including his recent eye surgery, without any financial support from the Appellant. Holding that the paramount consideration in custody matters is the welfare of the minor, the Family Court declined to disturb the existing custodial arrangement of the minor child.

6. Accordingly, *vide* the Impugned Order dated 19.05.2025, the Family Court dismissed the petition filed by the Appellant seeking custody of the minor child, while granting him limited visitation rights to be exercised on the first and third Saturday of each month between 3:00 P.M. and 5:00 P.M. in the Children's Room within the Court premises.

7. Aggrieved by the dismissal of his petition under Section 25 of the Act, the Appellant has preferred the present Appeal, *inter alia*, assailing the Impugned Order and seeking its setting aside.

CONTENTIONS OF THE APPELLANT

8. Learned counsel for the Appellant contends that the Family Court failed to appreciate that despite specific averments and material placed on record indicating that the Appellant is in a better financial position and is capable of providing superior care, education, and healthcare to the minor child, the Family Court proceeded to reject the custody claim without adequately weighing these factors. It is submitted that the Appellant has consistently demonstrated a nurturing approach towards the child's welfare, and that the custody with the father would serve the best interest of the minor child, including facilitating access to the paternal grandparents. It is, therefore,



contended that the Family Court misapplied the settled standard governing custody matters, namely, the paramountcy of the welfare of the child.

9. Learned counsel further submits that the Family Court erred in according undue weightage to the stated preference of the minor child, who, being of a tender and impressionable age, is particularly susceptible to emotional influence and manipulation. It is contended that, in such circumstances, the child's preference ought not to have been treated as conclusive, and greater emphasis should have been placed on objective indicators reflective of the child's long-term welfare and development.

10. Learned counsel also submits that the Appellant was not afforded a fair opportunity to substantiate his claims, as the proceedings did not permit adequate examination of the material relied upon by him. It is contended that the limited visitation rights granted, restricted to only the first and third Saturday of each month, between 3:00 P.M. and 5:00 P.M., within the Children's Room at the Court premises, are too limited in scope and duration to facilitate any meaningful interaction or emotional bonding between the Appellant and the minor child. It is urged that such constrained access fails to fulfil the objective of maintaining a nurturing paternal relationship, and significantly diminishes the Appellant's role in the child's life, particularly during his formative years. Learned counsel further points out that the Respondent has, on multiple occasions, failed to comply with the visitation schedule, thereby frustrating even the limited access afforded to the Appellant. It is thus submitted that the



impugned order warrants interference to secure a more balanced and facilitative custodial arrangement in the interest of justice.

FINDINGS & ANALYSIS

11. We have considered the submissions advanced on behalf of the Appellant and perused the record. However, we do not find any merit in the same.

12. At the outset, it must be reiterated that in matters of custody, the paramount and overriding consideration is the welfare of the minor child. This principle, grounded in Section 13 of the Act, has been consistently affirmed by the Supreme Court and various High Courts. The touchstone is not the individual rights or preferences of the contesting parents, but rather a holistic assessment of what arrangement would best serve the child's physical, emotional, moral, and educational well-being. While the financial capacity or stability of a parent may be a relevant consideration, it cannot, by itself, displace or eclipse the broader inquiry into the child's welfare.

13. In the present case, the Family Court, while adjudicating the custody claim, has undertaken an appropriate consideration of the child's welfare. The Family Court interacted with the minor child and formed the view that he was comfortable in the care and company of the Respondent. The preference expressed by the child, though not decisive by itself, is a relevant factor, particularly when it reflects emotional security and continuity in care giving. Courts have consistently held that where a child of tender age is found to be settled in a stable and nurturing environment, it would not be in the child's



interest to disturb such arrangement solely on the ground of financial or material superiority of the other parent.

14. In the case of *Rosy Jacob vs Jacob A. Chakramakkal*³, the Supreme Court emphasized that the object of the Act is not confined to determining mere physical custody but extends to securing the overall welfare of the minor, including the child's health, maintenance, education, and moral development. The Court cautioned that children are not chattels or playthings in the hands of parents, and that the absolute rights of parents must yield to the paramount consideration of the child's well-being. The principle of *parens patriae* is central to this approach — the Court acts not as an umpire between warring parents, but as a guardian concerned solely with the child's holistic welfare. The Family Court's approach in the present case aligns with this settled principle, insofar as it gives precedence to the emotional and psychological stability of the child over competing parental claims.

15. The Appellant's grievance that he was denied a fair opportunity to substantiate his case or to meaningfully engage with the minor child has also been duly considered. However, the record does not indicate any procedural infirmity or denial of due process by the Family Court. The Appellant was afforded sufficient opportunity to present his case, and the Family Court, upon due consideration of the pleadings and its interaction with the minor child, arrived at a reasoned conclusion.

16. As regards the contention that the visitation rights granted, restricted to the first and third Saturday of each month between 3:00

³(1973) 1 SCC 840



P.M. and 5:00 P.M. in the Children's Room within the Court premises, are inadequate, it must be noted that such arrangements are to prioritise the comfort, emotional stability, and well-being of the minor. In situations where overnight or unsupervised access may potentially cause disruption or anxiety to the child, a cautious and gradual approach is often warranted. Needless to say, if the circumstances evolve or the minor child becomes more receptive over time, it remains open to the concerned party to seek appropriate modification of visitation arrangements before the Family Court, in accordance with law.

CONCLUSION

17. In light of the foregoing discussion, this Court finds no infirmity in the approach adopted or the conclusions arrived at by the Family Court. The assessment of the minor child's welfare, grounded in direct interaction and careful consideration of the circumstances, does not warrant interference in appellate jurisdiction.

18. Having found no merit, the present Appeal, along with the pending applications, stands dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 13, 2025/sg/pl