

\$~16

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

+ CM(M) 607/2022

PANKAJ JAIN

..... Petitioner

Through: Mr.Prosenjeet Banerjee, Mr.Rishabh
Bansal, Ms.Shreya Shinghal and
Ms.Himanshu Malhotra, Advocates
with petitioner in person.

versus

PARUL JAIN

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

%

22.06.2022

**CM(M) 607/2022 & CM APPL.28619/2022 (under Article 227 r/w S.151
CPC), CM APPL.28620/2022 (stay)**

1. The present petition has been filed to set aside the order dated 08.06.2022 passed by the Additional Principal Judge, Family Court, West District, Tis Hazari Courts, Delhi whereby the learned Family Court has *inter alia* directed as under :

“(i) Respondent is permitted to take child to Malaysia for a period of nine days from 25.06.2022 till 03.07.2022, however, she shall file detailed itinerary of the place where she will be staying with the child as well as contact details of the person(s) with whom she would be staying on the email of the Court, through her counsel, before 25.06.2022.

(ii) Respondent shall bring back the child to Delhi positively on 03.07.2022, well in time, for her to attend the school which shall re~open after summer vacation on 04.07.2022.

(iii) Petitioner as well as respondent shall strictly adhere to the custody and visitation schedule in terms of orders dated 26.03.2019 and 19.04.2021.”

2. The petitioner is aggrieved by the order passed by the learned Additional Principal Judge, Family Court on the following grounds:

(i) Learned Judge, Family Court has not taken into the entire facts and circumstances and hence, passed the order mechanically without taking into account the fact that the respondent-mother is a flight risk.

(ii) Learned Judge, Family Court has not even asked the respondent-mother to file an undertaking that she will bring back the child to the custody of the Court.

(iii) That in the past, it has happened and also noted by this court in various cases that children have not been brought back.

3. Learned counsel for the petitioner has submitted that the case may be fixed before 25.06.2022 and child may be called for the interview as the child is not willing to go to Malaysia.

4. Learned counsel for the petitioner has also submitted that though advance notice has been served but the respondent has intentionally not appeared before the court. The attention has been invited to the notification No.69/Rules/DHC/2019 dated 05.12.2019 issued by this Court.

5. This court is of the firm view that in the matter relating to custody of the children, court has to give paramount consideration to the welfare of the children.

6. Learned Judge, Family Court, after taking into account all the submissions of the parties, has passed a detailed order allowing the child to be taken by the mother to Malaysia for a period of nine days from

25.06.2022 till 03.07.2022. Earlier also, the child was allowed to be taken to Dubai by the mother.

6. I consider that any interference by this Court at this stage and at such a short notice would only cause mental trauma to the child. Thus, this court does not feel any necessity to interfere into the orders of the learned Judge, Family Court. It may also be noted that this court does not find any perversity, malafide or non-application of mind in the order passed by the Learned Principal Judge, Family Court.

7. Issue notice to the respondent through all permissible modes, returnable before Roster Bench on 15.07.2022.

DINESH KUMAR SHARMA, J
(VACATION JUDGE)

JUNE 22, 2022

rb