

HIGH COURT OF DELHI AT NEW DELHI

FAO NO. 192 OF 2008

Reserved on : 6th June, 2008

Date of Decision: June 11th, 2008

Mrs. Devender Pal Kaur Appellant
! Through Mr. Pramod Ahuja, Advocate
with Mr. Rajiv Sharma,
Advocate

Versus

\$ Mr. Manjit Singh Respondent
Through None

CORAM:

*** HON'BLE MR. JUSTICE MANMOHAN**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the digest?

J U D G M E N T

MANMOHAN, J :

1. The present appeal has been filed against the order dated 2nd June, 2008 passed by the Guardianship Court, whereby it has directed that the custody of two minor children will be handed over to the Respondent/father on all Sundays during the month of June, 2008 from 10.00 AM to 5.00 PM.

2. Learned Counsel for the Appellant/wife contends that the Respondent is in breach of the order dated 9th October, 2007 as he

has not paid the expenses and, consequently, he was not entitled for any discretionary relief of the Guardianship Court. In this connection, the learned Counsel for Appellant has relied upon a judgment of this Court in case of ***“Smt. Raj Roshini Vs. Shri Surinder Kumar”*** reported in MANU/DE/0436/2008. He further submits that if the impugned order is not set aside, then impressionable minor children would have to repeatedly visit the police station Hari Nagar as the Petitioner would have to hand over and take over custody of the children at the police station. The learned Counsel for Appellant further states that the Appellant had planned to take the children to a hill station for a fortnight so as to give them a change and outing but owing to the impugned order, her schedule has been upset.

3. In my view, the Appellant’s arguments are misconceived on facts and untenable in law. I find that in the present case the Respondent has been contributing a sum of Rs. 3,000/- per month as maintenance charges and the only dispute is with regard to certain expenses which the Respondent is alleged not to have reimbursed. A perusal of the impugned order reveals that most of the bills for expenses were supplied by the Appellant only on the date when impugned order was passed. Moreover as in the present case the Respondent has been making regular payment of maintenance charges, it cannot be held as was done in ***Smt. Raj Roshini’s*** case

that the Respondent is not willing to pay any money to his wife for bringing up his minor children.

4. On a perusal of the impugned order, I find that it is a well reasoned one and has been passed not only after holding a brief session with both the minor children in chamber of the Judge, but the said order also considers the matter from different perspectives. A reading of the impugned order also shows that handing over and taking over of custody of the children has been made in presence of duty officer at police station to ensure its timely and smooth implementation. Moreover, I find that the Guardianship Court has stipulated a few guidelines to ensure that the handing over and taking over of custody of children is done in a peaceful and cordial manner. The other argument that the impugned order has upset the Appellant's schedule to take the children for a vacation does not impress this Court as for normal upbringing of children, contact and affection of both the parents is paramount.

5. Consequently, the present appeal being devoid of merits is dismissed, but with no order as to costs.

Manmohan
(Vacation Judge)

June 11th, 2008
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