

ITEM NO.5 Court 10 (Video Conferencing)

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 7134/2021

(Arising out of impugned final judgment and order dated 17-05-2021 in CMM No. 359/2021 passed by the High Court Of Delhi At New Delhi)

PANKAJ JAIN

Petitioner(s)

VERSUS

PARUL JAIN

Respondent(s)

(FOR ADMISSION and I.R. and IA No.63118/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.63119/2021-EXEMPTION FROM FILING AFFIDAVIT)

Date : 25-05-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Prosenjeet Banerjee, Advocate
Ms. Nidhi Mohan Parashar, AoR
Mr. Rishabh Bansal, Adv
Ms. Himanshi Malhotra, Adv
Mr. Yashdev Upadhyay, Adv
Mr. Vikrant Kumar Adv

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Having heard learned counsel for the petitioner and having examined the matter, it is noticed, as per the observations made in the order dated 04.05.2021 by the High Court, that petitioner's application for enforcing the order of the Trial Court dated 19.04.2021 was pending but could not be taken up for the Presiding Officer of the Court being down with Covid-19; and that was the

only reason that the High Court in its order dated 04.05.2021 provided for interim arrangement, whereby the petitioner was allowed the custody of child from 05.05.2021 to 16.05.2021.

We have indicated that even when the High Court has provided for such interim arrangement, fact of the matter remains that the application filed by the petitioner for enforcing the order dated 19.04.2021 is pending in the Trial Court and that further remedies in relation to the subject order or any other interim arrangement ought to be pursued only before the Trial Court.

Upon our expressing reservations in entertaining this petition, learned counsel appearing for the petitioner-husband(father of child) frankly submits that in the present circumstances, the petitioner may not press on his petition [CM(M) No. 359 of 2021] in the High Court and make necessary submissions before the Trial Court by moving a fresh application with request for early consideration.

Taking note of the submission so made and in the overall circumstances of the case, we permit the petitioner to adopt the course proposed by the learned counsel, that is, of moving a fresh application before the Trial Court and of making a request for its consideration by the Vacation Court and not to press the petition, being CM(M) No. 359 of 2021, before the Delhi High Court any further.

The proceedings in the High Court of Delhi, being CM(M) No. 359 of 2021, which were taken up at the instance of the petitioner only, shall stand closed, in view of the submission made before us.

It goes without saying that all the submissions of the

parties, in relation to the application to be moved by the petitioner shall remain open and shall be considered by the Trial Court with reference to the orders hitherto passed in this matter while keeping in view the paramount consideration of the welfare of the child.

Having regard to the subject matter, if the petitioner makes a prayer for early and expeditious consideration of his application, such a prayer may be given due consideration by the Court concerned.

Subject to the observations foregoing, the Special Leave Petition is disposed of.

All Pending application(s) stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)