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

Date of decision: 16.09.2026

CNR No. DLHC010439832026

+ CM(M) 2041/2026, CM APPL. 63230/2026 (Stay), CM APPL. 63231/2026 (Ex. From filing the certified copy of the impugned order dt. 30.05.2026) & CM APPL. 63232/2026 (Delay of 7 days in Re-filing the petition)

SHIKHA SINGH

.....Petitioner

Through: Mr. Kuldeep Gola and Mr. Harsh Kumar, Advocates along with Petitioner in person.

versus

SAURABH SINGH

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

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JUDGEMENT (Oral)

1. The present Petition has been filed under Article 227 of the Constitution of India, 1950 [**“the Constitution”**], assailing the Interim Order dated 30.05.2026 [**“Impugned Order”**] passed by the learned Judge, Family Court, Central District, Tis Hazari Courts [**“learned Family Court”**], in the case being GP No. 77/2023, seeking the following reliefs:

“a) **Set aside and/or modify** the Impugned Order dated **30.05.2026** passed by the Ld. Judge, Family Court, THC, District Centre, in **GP No. 77/2023**, to the extent it:

i) extends the visitation time from **one hour** to **one and a half hours**; and/or

ii) directs the Petitioner to remain outside the Children Room during visitation;



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- b) **Restore the visitation arrangement** as earlier operating pursuant to order dated **05.10.2023** passed by the Ld. Mahila Court, Central District, Tis Hazari Courts, in **CT No. 138/2023**, or pass such structured visitation schedule as this Hon'ble Court may deem fit in the best interests of the minor child;
- c) Pass appropriate directions ensuring that visitation remains **child-friendly and non-coercive**, including but not limited to: supervised visitation, restraint on intimidation/threats, and any other safeguards deemed necessary;
- d) Pass appropriate directions regarding clearance of maintenance arrears as per existing orders, including timelines for payment and consequences of default, in accordance with law;
- e) Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

SUBMISSIONS ON BEHALF OF THE PETITIONER:

2. Learned counsel appearing on behalf of the Petitioner submits that the Impugned Order would require to be interfered with, as the learned counsel appearing before the learned Family Court had not consented to various aspects which have been incorporated in the said Order. However, during the course of oral submissions, it has been fairly admitted by the learned counsel for the Petitioner that the Petitioner had expressly consented to the extension of the visitation period from one hour to one and a half hours.

3. The second challenge essentially pertains to the direction requiring the Petitioner to remain outside the Children Room during the period of visitation. Learned counsel, in this regard, submits that the minor child is of tender age and, during the course of visitation, keeps crying. It is, therefore, submitted that the Petitioner ought to be permitted to remain inside the Children Room during the period of visitation.

4. It is further submitted that the visitation ought to be restored to the arrangement which was operating earlier, or, in the alternative, a



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structured visitation schedule ought to be put in place in the best interests of the minor child.

5. Learned counsel appearing on behalf of the Petitioner also submits that the Petitioner is aggrieved by the direction that the parties shall not undertake any video recording of the visitation. It is submitted that such direction also requires reconsideration. Learned counsel further seeks directions with respect to clearance of the maintenance arrears, including timelines for payment and consequences of default.

ANALYSIS:

6. This Court has heard learned counsel appearing on behalf of the Petitioner at length and, with his able assistance, perused the material available on record.

7. Before proceeding to examine the contentions raised by the Petitioner, it would be apposite to delineate the scope of jurisdiction exercised by this Court under Article 227 of the Constitution. The said jurisdiction is supervisory in nature and is to be exercised sparingly, to ensure that the subordinate Court acts within the bounds of its jurisdiction and in accordance with law. It is not an appellate jurisdiction enabling this Court to substitute its own view merely because another view may be possible. Interference would, therefore, be warranted only where the order under challenge suffers from a patent jurisdictional error, perversity, manifest illegality or results in a gross failure of justice. The aforesaid principles have been iterated by



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the Hon'ble Supreme Court in ***Shalini Shyam Shetty v. Rajendra Shankar Patil***¹, and ***Garment Craft v. Prakash Chand Goel***².

8. In ***Shalini Shyam Shetty*** (*supra*), the Hon'ble Supreme Court has held that the power under Article 227 of the Constitution is to be exercised sparingly and only in appropriate cases where interference is necessary to keep the subordinate Courts within the bounds of their authority. The relevant observations of the Hon'ble Supreme Court read as under:

“ *****

(c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in ***Waryam Singh***³ and the principles in ***Waryam Singh*** (*Supra*) have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in ***Waryam Singh*** (*Supra*), followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, “within the bounds of their authority”.

(f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot

¹ (2010) 8 SCC 329

² (2022) 4 SCC 181

³ AIR 1954 SC 215



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interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

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9. In ***Garment Craft*** (*supra*), the Hon’ble Supreme Court reiterated that Article 227 of the Constitution does not permit the High Court to act as a court of first appeal and reappraise/reweigh evidence. The relevant observations of the Hon’ble Supreme Court read as under:

“15. Having heard the counsel for the parties, we are clearly of the view that the impugned order [***Prakash Chand Goel v. Garment Craft***⁴] is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappraise, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. [***Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar***⁵] The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice. 16. Explaining the scope of jurisdiction under Article 227, this Court in ***Estralla Rubber v. Dass Estate (P) Ltd.***⁶ has observed : (SCC pp. 101-102, para 6)

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior

⁴ 2019 SCC OnLine Del 11943

⁵ (2010) 1 SCC 217

⁶ (2001) 8 SCC 97



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courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

10. Keeping in view the aforesaid scope and parameters governing the exercise of jurisdiction under Article 227 of the Constitution, this Court shall now examine the contentions raised by the learned counsel for the Petitioner and the Impugned Order to determine whether any jurisdictional or legal infirmity warranting interference by this Court is made out.

11. The Impugned Order is confined to the issue of visitation of the minor child. The question of clearance of maintenance arrears, timelines for payment thereof or the consequences of any default does not form the subject matter of the Impugned Order. Consequently, the said relief, as sought in Prayer (d), does not arise for consideration in the present proceedings and would appropriately have to be agitated before the learned Family Court in accordance with law.

12. Insofar as Prayer (a)(i) is concerned, the challenge is to the extension of the visitation period from one hour to one and a half



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hours. However, the Petitioner has, during the course of the present proceedings, fairly admitted that consent had been expressly accorded to the said extension. In view of the aforesaid admission, there remains no basis for the Petitioner to seek interference with the said direction. The challenge to the extension of the visitation period, therefore, does not merit consideration.

13. The principal issue which, therefore, remains for consideration is the direction contained in Prayer (a)(ii), whereby the Petitioner has been directed to remain outside the Children Room during the period of visitation. The grievance of the Petitioner in this regard is essentially founded on the tender age of the minor child and the submission that the child keeps crying during the visitation.

14. In this context, the settled principles governing visitation rights, particularly with respect to preserving the child's relationship with both parents, assume significance. The Hon'ble Supreme Court in ***Yashita Sahu v. State of Rajasthan***⁷, has held the following:

“20. It is well settled law by a catena of judgments that while deciding matters of custody of a child, primary and paramount consideration is welfare of the child. If welfare of the child so demands then technical objections cannot come in the way. However, while deciding the welfare of the child, it is not the view of one spouse alone which has to be taken into consideration. The courts should decide the issue of custody only on the basis of what is in the best interest of the child.

21. The child is the victim in custody battles. In this fight of egos and increasing acrimonious battles and litigations between two spouses, our experience shows that more often than not, the parents who otherwise love their child, present a picture as if the other spouse is a villain and he or she alone is entitled to the custody of the child. The court must therefore be very wary of what is said by each of the spouses.

22. A child, especially a child of tender years requires the love, affection, company, protection of both parents. This is not only the

⁷ (2020) 3 SCC 67



requirement of the child but is his/her basic human right. Just because the parents are at war with each other, does not mean that the child should be denied the care, affection, love or protection of any one of the two parents. A child is not an inanimate object which can be tossed from one parent to the other. Every separation, every reunion may have a traumatic and psychosomatic impact on the child. Therefore, it is to be ensured that the court weighs each and every circumstance very carefully before deciding how and in what manner the custody of the child should be shared between both the parents. Even if the custody is given to one parent, the other parent must have sufficient visitation rights to ensure that the child keeps in touch with the other parent and does not lose social, physical and psychological contact with any one of the two parents. It is only in extreme circumstances that one parent should be denied contact with the child. Reasons must be assigned if one parent is to be denied any visitation rights or contact with the child. Courts dealing with the custody matters must while deciding issues of custody clearly define the nature, manner and specifics of the visitation rights.

23. The concept of visitation rights is not fully developed in India. Most courts while granting custody to one spouse do not pass any orders granting visitation rights to the other spouse. As observed earlier, a child has a human right to have the love and affection of both the parents and courts must pass orders ensuring that the child is not totally deprived of the love, affection and company of one of her/his parents.”

15. The aforesaid principles assume significance in the present case, where the issue is not one of denying custody to either parent, but of regulating the manner in which the Respondent-father is to exercise his visitation with the minor child. The arrangement, therefore, has to be considered bearing in mind the child's tender age, while also ensuring that the child is not deprived of meaningful interaction with the biological father.

16. The nature of the arrangement prescribed by the learned Family Court is required to be considered in this context. The Impugned Order permits the Respondent-father to meet the minor child for a period of one and a half hours, between 03:00 PM and 04:30 PM, on every first, third and fourth Saturday. During the said period, the



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Petitioner is permitted to remain within the same premises, though outside the Children Room, while the Respondent is permitted to interact with the child. The Impugned Order further directs that the parties shall not undertake any video recording of the visitation, particularly in view of the fact that CCTV cameras are already installed at the premises, and that any incident arising during the course of visitation can be brought to the notice of the learned Family Court.

17. The aforesaid arrangement is, therefore, only an interim arrangement regulating the manner in which the Respondent-father is to interact with the minor child. It does not amount to a final adjudication of the rights of either parent. The direction requiring the Petitioner to remain outside the Children Room has to be viewed in the context of the purpose of visitation itself, namely, to facilitate interaction between the minor child and the biological father.

18. Merely because the minor child is at an early stage of life and may cry during the course of visitation cannot, by itself, be a ground to set aside the arrangement directed by the learned Family Court. The child is of tender age and has been primarily in the care of the Petitioner-mother. In such circumstances, the introduction of the biological father into the life of the child and the development of a relationship between the father and the child would necessarily require the child to gradually become familiar with such interaction.

19. The welfare of a minor child necessarily includes the preservation and development of a meaningful relationship with both parents. The Courts, while regulating visitation, are required to balance the tender age and immediate comfort of the child with the



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larger requirement of facilitating a healthy relationship between the child and both parents. The mere fact that the child may initially experience discomfort or cry during such interaction cannot, without more, result in the biological father being denied an opportunity to interact with the child.

20. In the present case, the arrangement prescribed by the learned Family Court does not completely exclude the Petitioner from the premises. The Petitioner remains permitted to be present in the same premises, though outside the Children Room, while the Respondent is permitted to interact with the minor child. The arrangement is also subject to the supervision afforded by the CCTV cameras installed at the premises, and any grievance or incident arising during visitation can be placed before the learned Family Court.

21. It is also relevant that the Impugned Order is only an interim arrangement and is not a final determination of the visitation rights of the parties. In the event that any genuine difficulty arises in the implementation or operation of the arrangement, or circumstances subsequently arise warranting a modification thereof, it would remain open to the Petitioner to approach the learned Family Court by way of appropriate proceedings in accordance with law. The learned Family Court would, in such eventuality, consider the matter on its own merits, keeping the welfare and best interests of the minor child paramount.

CONCLUSION:

22. In view of the aforesaid discussion, this Court finds no infirmity in the Impugned Order warranting interference by this Court in exercise of jurisdiction under Article 227 of the Constitution of India.



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It is reiterated that the jurisdiction under Article 227 of the Constitution is supervisory in nature and is not to be exercised as an appellate jurisdiction, particularly where the order passed by the Court below does not suffer from any patent illegality, perversity or jurisdictional infirmity. The arrangement prescribed by the learned Family Court appropriately regulates the visitation of the Respondent-father while safeguarding the interests of the minor child.

23. In view of the above, the present Petition stands dismissed.

24. Accordingly, the present Petition, along with pending Application(s), if any, stands disposed of in the above terms.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 16, 2026/tk/ma