



2026:DHC:5151-DB



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

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Date of Decision : 19.06.2026

+ **MAT.APP.(F.C.) 213/2026, CM APPL. 39094/2026 & CM APPL. 39095/2026**

.....Appellant

Through: Mr. Rajat Aneja, Mr. Abhinav Chauhan, Mr. Saubhagya Chauriha & Ms. Kaanchi Ahuja, Advocates.

versus

.....Respondent

Through: Mr. Prashant Mendiratta & Ms. Shreya Singhal, Advocates.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

HON'BLE MS. JUSTICE MADHU JAIN

TEJAS KARIA, J. (ORAL)

CM APPL. 39095/2026

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

MAT.APP.(F.C.) 213/2026

3. This is an Appeal under section 19 of the Family Courts Act, 1984 against the order dated 04.06.2026 (“**Impugned Order**”) passed by the learned Principal Judge, Family Court, South-East District, Saket Courts,



New Delhi (“**Family Court**”) in guardianship petition being G.P. NO. 87 of 2022 titled (“**Guardianship Petition**”).

4. The Appellant has filed the present Appeal, *inter alia*, challenging the following observations and directions passed in the Impugned Order:

“16. Considering the observations in the case law referred to by the Petitioner, the court is of the view that the petitioner is well within his rights to get the school records and adhaar card corrected, in so far they relate to the parentage of the minor.

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20. Having regard to the facts and circumstances of the case, the application dated 9/12.07.2025 of the Petitioner for grant of access to and inclusion in the school records is allowed in following terms:-

i) Respondent shall get the name of the petitioner recorded/added in the school records and Adhaar Card, with copies to the Petitioner;

ii) Petitioner shall be entitled to have Parents-I Card but his right to visit the school and interactions shall be restricted only for the purposes of Parent and Teachers meetings, in respect whereof, the Respondent shall keep the Petitioner updated and informed well in time;

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41. Having considered all the relevant aspects, in the light of submissions of the Ld. Counsel of the Parties, the application is disposed off with the following directions:-

*i) The Petitioner shall have overnight custody for 20th June (saturday) evening 6.00 p.m. onwards till the morning i.e. 8.a.m. of 22nd of June 2026 (Monday). The Respondent to, accordingly, hand over the custody of the Minor Child-
l, to the Petitioner at 6 p.m. on 20th June 2026 from her residence and the Petitioner shall return the custody of the child to the Respondent at 8.00 a.m. on 22nd June 2026. The Petitioner, however, shall not take the child away from his home for this period.*

ii) Petitioner shall have the rights to meet the child between 5.30 p.m. to 8.30 p.m. on 23rd of June to 25th of June, 2026 ,



at any nearby Mall or suitable place, as may be mutually agreed between the parties. In case of any failure of agreement. the child can be handed over to the Petitioner in Saket Mall, N Delhi at 5.30 p.m. and his custody to be returned back at the same spot, latest by 8.30 P.m.;

iii) As the child is stated to be not available In Delhi on 28th June 2026, the said relief cannot be granted. However, Petitioner shall have right to telephonically/whatsapp call him on the said day.”

5. The learned Counsel appearing on behalf of the Appellant submitted that there is no grievance against the visitation rights of the Respondent, which have been continuing for the last four years. However, during the pendency of the Guardianship Petition, the Respondent has been repeatedly seeking the interim custody of the child. It was submitted that the Family Court, *vide* order dated 05.08.2024 passed in the Guardianship Petition, had declined the interim custody of the child to the Respondent and granted only visitation rights to the Respondent.

6. The order dated 05.08.2024 passed by the Family Court was challenged by the Respondent before this Court in MAT.APP.(FC) No. 313/2024 titled '*Gaurav Batra v Disha Gupta*' wherein this Court *vide* order dated 09.04.2025 allowed the Respondent's appeal against the order dated 05.08.2024 and as an interim measure, *inter alia*, directed the Appellant to hand over the custody of the child on the 1st and 3rd Saturday and Sunday of the month at 10 A.M. to the Respondent and the Respondent was directed to pick up the child from the residence of the Appellant at 10 A.M. and return the custody of the child to the Appellant at her residence by 6 P.M. on both days.



7. The order dated 09.04.2025 passed by this Court in MAT. APP.. (FC) No. 313/2024 came to be stayed by the Supreme Court *vide* order dated 20.02.2026 passed in ‘Disha Gupta vs Gaurav Batra’ bearing Special Leave Petition (C) No. 11512 OF 2025, wherein the Supreme Court observed that:

“7. The order of the High Court impugned in this appeal is set aside. Consequently, the order dated 05.08.2024 passed by the learned Principal Judge, Family Court, South East District, Saket, New Delhi in guardianship petition No.87/2022 is restored with the following modification. Para 21(ii) of the order of the Family Court shall now read as under –

“21 (ii) Respondent is also directed to facilitate the meeting of the minor Master Aryan during the period from 1 pm to 6 pm on every second Saturday of the month at Select City Mall, Saket, New Delhi or any other venue after prior intimation by the respondent to the petitioner. Petitioner shall deliver back the custody of child to respondent positively by 6 pm that day at the place the petitioner obtained the custody of child at 1 pm that day.”

8. It is submitted on behalf of the Appellant that the Impugned Order is in teeth of the Supreme Court order dated 20.02.2026 and that no change in circumstances was pleaded by the Respondent necessitating the grant of overnight custody of the child under the Impugned order. The learned Counsel for the Appellant further submitted that the application filed by the Respondent before the Family Court seeking interim custody of the child in summer vacation did not seek overnight custody and was confined to a prayer for unsupervised visitation. It is further submitted on behalf of the Appellant that the reasoning given by the Family Court in Paragraph No. 40 of the Impugned Order is contrary to the operative direction contained in Paragraph No. 41 (i) thereof. The relevant part of the Impugned Order is reproduced below:



“39. However, the concerns of the Respondent, and the contentions of the Ld. Counsel of the respondent cannot be brushed aside either. It is impressed upon the court that the child is of tender age, impressionable and cannot stay without the mother. The Respondent side has contended that the Petitioner's rights stands crystallized and are limited by the order dated 20.02.2026 of the Hon'ble Supreme Court. Ideally, the Petitioner could have pressed for such relief before the Hon'ble Supreme Court, but the omission would not render the very application as not maintainable. It is settled law that the orders of custody and visitation, by their very intrinsic nature, are temporary and impermanent. It is, off course, indisputable that a change in the order qua custody is also to be backed by compelling change in circumstances. The said analogy, however, cannot apply to the present application, as the interim rights alone are being claimed by the Petitioner. Going by the law that the rights of custody/visitation are temporary in nature, it cannot be said that the order of the Hon'ble Supreme court would debar any visitation rights, that may be asked on pro-tempore basis.

40. There appears to be no impediment in grant of the relief, as has been asked for by the Petitioner. However, there is one aspect which weighs upon the court's mind before proceeding further. The Child has spent his initial years with his mother. He has never lived overnight with the petitioner, or separated from the mother. To expect the child to slay with the father, unsupervised i.e. in the absence of her mother may not be appropriate, even though legally permissible. The child may need more lime 10 acclimatize himself before he can be expected to live separate from his mother, for such long durations. Expecting him to live in a different environment for long durations may perplex him, in the absence of his mother. The court, thus, needs 10 strike a balance between the two.”

9. It is submitted on behalf of the Appellant that the child is scheduled to travel to Dehradun on 28.06.2026, and that the Appellant has no objection to the Respondent being granted visitation rights with the child on a daily basis from 20.06.2026 till 25.06.2026.



10. The learned Counsel for the Respondent submitted that orders regulating custody and visitation are interlocutory in nature, and that the Impugned Order cannot be said to be contrary to the order dated 20.02.2026 passed by the Supreme Court merely because the Family Court has granted overnight custody of the child to the Respondent. It was further submitted on behalf of the Respondent that the Supreme Court, *vide* order dated 20.02.2026, has not held that the Respondent can never be granted overnight custody of the child.

11. With regard to the apparent disconnect between Paragraph No. 40 and Paragraph No. 41(i) of the Impugned Order, the learned Counsel for the Respondent submitted that the child wishes to spend time overnight with the Respondent. The learned Counsel for the Respondent further submitted that the observation in the Impugned Order that the child has never stayed overnight with the Respondent is not relevant as an overnight stay is necessary to enable the child to become comfortable with the Respondent.

12. We have heard the learned Counsel appearing for the Parties. The submissions advanced before this Court are substantially confined to the direction contained in Paragraph No. 41(i) of the Impugned Order, insofar as it permits overnight custody of the child with the Respondent.

13. The findings recorded by the Family Court in Paragraph No. 40 of the Impugned Order that the child has never stayed overnight with the Respondent, that expecting the child to stay with the Respondent unsupervised may not be appropriate, and that the child may require further time to acclimatise before being expected to reside separately from the Appellant have not been assailed by the Respondent. In view of the



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inconsistency between the observations recorded in Paragraph No. 40 and the operative directions contained in Paragraph No. 41(i) of the Impugned Order, we are of the considered opinion that the direction permitting overnight custody of the minor child does not appear to be warranted at this stage.

14. Consequently, with consent of the Parties, the Impugned Order is modified to the extent that:

- i. The Respondent shall be entitled to have custody of the minor child from 09:00 A.M. to 08:00 P.M. on each day from 20.06.2026 till 25.06.2026.
- ii. Upon the child's return from Dehradun, the Respondent shall be entitled to have custody of the minor child from 09:00 A.M. to 08:00 P.M. on 30.06.2026.

15. It is clarified that the arrangement regarding the pick-up and drop of the child shall remain the same as directed by the Family Court *vide* the Impugned Order.

16. The Appeal is allowed in the aforesaid terms and stands disposed of. Pending Application(s), if any, also stand disposed of.

TEJAS KARIA, J
(VACATION JUDGE)

MADHU JAIN, J
(VACATION JUDGE)

JUNE 19, 2026

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