

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Sheet****FA(MAT) No.40 of 2023**

- Smt. Varsha Deshmukh W/o Tejram Deshmukh Aged About 32 Years R/o 5 Building, Quarter No. H-2/b-38 Lane No. 6, Tahsil And District-Durg Chhattisgarh.

---- Appellant**Versus**

- Tejram Deshmukh S/o Khorbahara Ram Deshmukh Aged About 38 Years R/o Shyam Nagar, Risali, Ward No. 61 Higher Secondary School, Near Risali Village, P.S. Newai, Durg District - Durg Chhattisgarh

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27/03/2023	Shri Pushkar Sinha, counsel for the appellant. Shri G. I. Sharan along with Shri Jitendra Gupta, counsel for the respondent. Heard. In compliance to the order dated 20.03.2023 passed by this Court, the appellant along with two minor children and respondent are present in the Court. The efforts have been made for amicable settlement between the parties in chamber. The minor children were asked about their opinion with regard to choice of living with the father or the mother. Both of them have stated that they are willing to stay with their mother, however, if both (father and mother) wants to live together, then, they have no difficulty to live along with their father also. Despite all repeated efforts, no amicable settlement could be arrived at between the parties. Learned counsel for the parties also persuaded the parties to give fresh start of their life, however, all went in vein. In view of the facts and circumstances stated above, we deem it proper to list these cases for final hearing. Heard on admission.

Admit.

Also heard on application for staying the impugned order dated 08.12.2022 (Annexure A-1).

Shri Pushkar Sinha, learned counsel for the appellant submits that by the impugned order passed by the learned Family Court, custody of son has been given to the father while daughter has been given in the custody of mother. He submits that the findings recorded by the learned Family Court is erroneous and illegal and for the time being, the effect and operation of the impugned order may be stayed as both minor children are residing with their mother. He, however, submits that the father may be given visiting right to meet children as per the directions of the learned Family Court or by this Court.

Shri G. I. Sharan and Shri Jitendra Gupta, learned counsel for the respondent vehemently opposed the submission made by learned counsel for the appellant, by submitting that the impugned order has been passed by the learned Family Court, after proper appreciation of evidence brought on record. Even otherwise, due care has been taken by the learned Family Court and looking to the welfare of the minor children, custody of minor son has been directed to be delivered to the father, therefore, the application for grant of interim relief may be rejected.

We have heard rival submissions of learned counsel for the parties and also perused the impugned order passed by the learned Family Court.

Looking to the facts and circumstances of the case, particularly looking to the fact that both minor children are residing with their mother and they have also expressed their willingness to stay with their mother only, at this stage, the appellant has made out a case for grant of interim relief.

In view of above, the application for grant of interim relief dated 07.02.2023 (In F.A.(MAT) No.40 of 2023) is allowed. It is directed that the impugned order dated 08.12.2022 (Annexure A-1) passed by the 3rd Additional Principal Judge, Family Court, Durg in Misc. Civil Suit No.60 of

2019 shall remain stayed till the next date of hearing. Respondent herein-Tejram Deshmukh is directed to meet the children once in a week (all Sundays) for a period of four hours between 12 P.M. to 4 P.M. The respondent herein would be at liberty to meet the children during the course of festivals like Holi, Rakshabandhan, Dashara, Dipawali etc.

List this matter for final hearing in due course.

SD/-
(Sanjay S. Agrawal)
Judge

SD/-
(Sachin Singh Rajput)
Judge

