

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. \_\_\_\_\_ OF 2026  
(@ SLP (CIVIL) NO. 5943 OF 2026)

VISHAL VERMA

APPELLANT(S)

VERSUS

TWINKLE VINAYAK

RESPONDENT(S)

O R D E R

1. Leave granted.
2. This is an unfortunate second round of litigation in reference to child custody and grant of visitation rights to the parents to meet the minor child which ought not to have seen the light of the day or to have come out in public domain rather could have been sorted out or resolved with the good offices of the common respected and trustworthy persons of the society viz. friends and relatives.
3. The marriage between the parties, that is, the appellant-husband and the respondent-wife was solemnized on 14.02.2014. A male child was born to them on 03.04.2017.
4. On account of strained relationship, the

appellant some time in 2019 applied for the guardianship of the minor child. The Family Court in its order dated 13.01.2023 recorded that the bond between the father and the child required to be strengthened, and thus, granted the appellant overnight custody and every-weekend physical custody of the minor child. He was permitted to pick up the child from the school on weekends and drop him at the mother's place. While the aforesaid arrangement was continuing, it appears that the respondent took the minor child to U.S.A. without obtaining any permission of the Court and without even intimating the appellant.

5. The appellant aggrieved by the aforesaid act of the respondent preferred a *habeas corpus petition* in the Delhi High Court contending that the child had been illegally removed from India and taken to U.S.A. depriving him of his visitation rights granted by the Family Court. The Division Bench of the High Court by an order dated 11.12.2024 held that the custody of the minor child with the respondent becomes illegal as she took the child to U.S.A. in an unlawful manner. Therefore, the Court directed for the return of the child to India.

6. On 21.01.2025, the parties arrived at a consensus in the *habeas corpus petition*, whereupon, the Court permitted the father to visit the child twice a month and to pick up the child from the School on Friday after the School was over and to drop him back at the mother's place by 5.00 p.m. on Saturday with the understanding that the mother and the child would not be allowed to leave the country without the permission of the Court.

7. In view of the leave granted by this Court in earlier SLP (Crl.) No.18175 of 2024, the respondent moved an application under Section 151 of the Civil Procedure Code, 1908 before the Delhi High Court so as to seek permission to travel to U.S.A. along with the minor son to pursue her post graduate programme in 'Public Health Education and Promotion, (M.S.) at Marymount University, Arlington, Virginia, United States. The said application has been allowed by the order impugned dated 05.02.2026 and the High Court has permitted the respondent in modification of earlier orders, to travel to U.S.A. along with the minor child for completing her post graduation programme. However, she has been directed to furnish an affidavit of undertaking to the effect that - (i) She will

furnish complete details of her residential address in the U.S.A. and shall not relocate to another city or country without apprising the Court and the appellant, at least a week prior to the relocation; (ii) She shall also furnish details of the School of the minor child in U.S.A. to the appellant and keep him aware of the progress and activities of the child; (iii) Liberty was given to the appellant to contact the minor child through video conferencing for a period of 30 minutes on every Saturday and Sunday as also for 10-15 minutes on Wednesday of each week after the School hours; (iv) The respondent will ensure the presence of the minor child in Delhi for a period of two months during the child's summer vacations and for a period of at least 10 days during his winter vacations with prior intimation to the appellant. On each such occasion, she shall share all details of the child with the father to ensure their physical meeting with each other after mutually deciding the date, time and venue for such meetings, which would last not more than four hours on each occasion with overnight visitation of the minor child on weekends from Saturday 10.00 a.m. to Sunday 5.00 p.m. to his father and; (v) The respondent will return to India along

with the minor child upon completion of her post graduate programme without taking up any new/fresh admission to any other course/programme or any job.

8. It is the above order, which has now been impugned by the appellant on the ground that the entire above exercise on the part of the respondent to go abroad for education with the minor child is to defeat his visiting rights. It is necessary in the facts of the case that the bond which the appellant had established with his son needs to be more strengthened and for that purpose, the arrangement which was prevailing ought not to be disturbed otherwise, the entire exercise so far undertaken would prove to be futile and a nullity.

9. From the side of the respondent, it is contended that she has a fundamental right to pursue her education and since the minor child is in her custody since long, she cannot be denied his custody to go abroad without him. The High Court has suitably protected the interest of the appellant and, therefore, the order impugned need not be interfered with.

10. Having heard learned counsel for the parties and after going through the papers on record, we find that

undoubtedly, the respondent has a right for career advancement by getting suitable post-graduation degree which she is pursuing at U.S.A. It would not be desirable and feasible to hamper her studies by refusing her permission to go abroad. Since, the minor child is in her custody all through and is aged about nine years, it is also not desirable to disturb the said custody arrangement. Therefore, in all fairness she should be permitted to take the minor child with her. However, we find that she is pursuing the post graduate programme in 'Public Health Education and Promotion, (M.S.), abroad which is a course of about six semesters spanning into about three years of which she has completed one semester, meaning thereby that her stay in U.S.A. would now be for about 2 ½ years. Therefore, if the child is allowed to stay with her for all this time, the appellant has to be suitably compensated for the deprivation of his visiting rights granted by the Family Court, that is, twice a month with overnight stay.

11. We find that the High Court has not taken sufficient care to compensate the appellant in this regard keeping in mind the interest of the child while

requiring an affidavit of undertaking of the respondent.

12. In the facts and circumstances of the case, we feel that the respondent shall not only ensure her presence with the child in Delhi, India during all winter and summer vacations of the child, that is, for a period of two months during the summer vacations and for one month or whatever the period of winter vacations is during the winters and while in India, she will allow the minor child to spend at least one month with the appellant during the summer vacations and at least for 10-15 days depending upon the duration of the vacations, during the winter vacations. All other conditions regarding furnishing of residential address, school details of the minor child and the right of video conferencing etc. would remain the same.

13. It is further provided that apart from the minor child, living with the respondent during the vacations, as aforesaid, the appellant would be free to talk to the child either through audio or video platform every day for at least 10-15 minutes, while he is in India and staying with the mother.

14. The respondent would file an additional affidavit of undertaking incorporating the above conditions before the Delhi High Court.

15. The appeal stands disposed of and the order impugned passed by the Delhi High Court dated 05.02.2026 stands modified to the above extent.

16. Pending application(s), if any, shall stand disposed of.

.....J.  
( PANKAJ MITHAL )

.....J.  
( S.V.N. BHATTI )

NEW DELHI  
12<sup>th</sup> FEBRUARY, 2026  
GA

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). 5943/2026

[Arising out of impugned final judgment and order dated 05-02-2026 in CMM No. 159/2023 passed by the High Court of Delhi at New Delhi]

VISHAL VERMA

PETITIONER(S)

VERSUS

TWINKLE VINAYAK

RESPONDENT(S)

(IA No. 44496/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 12-02-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PANKAJ MITHAL  
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Ms. Meenakshi Arora, Sr. Adv.  
Mr. Udit Gupta, Adv.  
Mr. Chandratanay Chaube, Adv.  
Mr. Akash Deep Singh, Adv.  
Ms. Nidhi Malhotra, Adv.  
Mr. Naresh Kumar, AOR

For Respondent(s) Ms. Mahalakshmi Pavani, Sr. Adv.  
Dr. Swati Jindal, AOR  
Ms. Sristi Makol, Adv.  
Ms. Shaurya Mishra, Adv.  
Ms. Prabisha Pradeep, Adv.  
Ms. Dristhty Chaudhary, Adv.  
Mr. Neeleshwar Pavani, Adv.

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

1. Leave granted.
2. The appeal stands disposed of in terms of the signed order.

3. Pending application(s), if any, shall stand disposed of.

(Nidhi Mathur)  
Court Master (NSH)

(Geeta Ahuja)  
Assistant Registrar-cum-PS

(Signed Order is placed on the file)