



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

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Judgment reserved on: 17.06.2026

Judgment delivered on: 22.06.2026

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MAT.APP.(F.C.) 210/2026, CM APPL. 38906/2026 & CM APPL. 38907/2026

.....Appellant

Versus

.....Respondent

Advocates who appeared in these cases

For the Petitioner : Ms. Geeta Luthra, Sr. Advocate with Mr. Aadarsh Kothari and Ms. Aparna Bhadoria, Advocates.

For the Respondents : Ms. Manali Singhal, Ms. Shreya Singhal and Ms. Aanchal Kapoor, Advocates.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

TEJAS KARIA, J

1. The present Appeal has been preferred under Section 19 of the Family Courts Act, 1984 (“Act”), assailing the order dated 26.05.2026 (“**Impugned Order**”) passed by the learned Family Court, South District, Saket Courts, New Delhi (“**Family Court**”) in HMA No. 1774/2023 (“**Divorce Petition**”).



2. By the Impugned Order, the learned Family Court dismissed the Appellant's application under Section 26 of the Hindu Marriage Act, 1955 ("HMA"), seeking interim custody of the minor children while they are in London, United Kingdom, from 28.06.2026 to 05.07.2026 ("**Interim Application**").

3. Ms. Geeta Luthra, learned Senior Counsel for the Appellant, submitted that the learned Family Court permitted the Respondent to act unilaterally, without any prior discussion with or consent of the Appellant in relation to the custody of the children during the summer vacation. It was further submitted that the Impugned Order is contrary to the record, inasmuch as it fails to consider the *bona fides* of the Appellant, who had first informed the Respondent of his proposed trip to London with the children for a period of 15 days; however, the Respondent, without prior intimation, booked her summer vacation with the children for 35 days.

4. Learned Senior Counsel for the Appellant submitted that the learned Family Court erred in failing to consider that the Appellant had altered his itinerary to accommodate the wishes of the Respondent by proposing to spend time with the children for only 7 days, instead of 15 days, from 28.06.2026 to 05.07.2026, while they would be in London with the Respondent. It was further submitted that the Impugned Order has been passed without cogent reasons and has the effect of restricting the Appellant's right to spend time with the children abroad during their vacation.

5. Learned Senior Counsel for the Appellant further submitted that the Impugned Order does not take into consideration that the Appellant had



prior commitments, owing to which he had given advance intimation of his proposed vacation plan with the children to the Respondent, whereas the Respondent did not intimate the Appellant before planning her vacation.

6. It was further submitted on behalf of the Appellant that, prior to the disputes between the Appellant and the Respondent, the children had resided in London from 2015 to 2019 and, therefore, were familiar with and enjoyed visiting London during their vacations. The Appellant and the Respondent, along with their children, shifted to India in 2019 on account of the ill-health of the Appellant's father and began residing with the Appellant's parents at B-50, Gulmohar Park, New Delhi. Since then, they are living in same house but separately.

7. It was submitted on behalf of the Appellant that, on account of matrimonial discord between the Parties, several litigations, including the Divorce Petition, have been instituted and are pending adjudication before the learned Family Court. It was submitted that the Appellant had also filed a Guardianship Petition seeking permanent custody of the children before the learned Family Court; however, the said petition was dismissed by the learned Family Court *vide* order dated 16.10.2025.

8. Learned Senior Counsel for the Appellant submitted that, as the Appellant intended to spend quality time with the children, he planned a vacation to London during their summer vacation from 15.06.2026 to 30.06.2026, intimated the Respondent of the same on 14.04.2026, and requested her to provide the children's passports for completing the requisite formalities. It was submitted that the Respondent refused the request and informed the Appellant that the children were already scheduled to travel to



London with her and would be occupied with their schedule during the period when the Appellant would also be in London.

9. Learned Senior Counsel for the Appellant submitted that, left with no effective alternative and being desirous of spending time with his children, the Appellant altered his itinerary and enquired from the Respondent whether the children would be available from 28.06.2026 to 05.07.2026 in London. However, the Respondent did not respond to the said communication, allegedly with the intention of keeping the Appellant away from the children.

10. Learned Senior Counsel for the Appellant submitted that the Appellant was, therefore, constrained to file the Interim Application seeking interim custody of the children from 28.06.2026 to 05.07.2026, during the period when the children would be in London with the Respondent.

11. Learned Senior Counsel for the Appellant submitted that the Appellant, being a loving father, has always cared for his children and has taken them on several vacations, including to Dubai, Ranthambore and Goa. It was submitted that the Appellant is capable of taking care of the children abroad and ought not to be deprived of his right to spend time with them while they are in London during their summer vacation.

12. Ms. Manali Singhal, learned Counsel for the Respondent submitted that, since the Guardianship Petition filed by the Appellant was dismissed by the learned Family Court *vide* order dated 16.10.2025, and no appeal was preferred by the Appellant against the said order, the Interim Application under Section 26 of the HMA was not maintainable, as the Appellant had abandoned his plea with respect to guardianship and custody.



13. Learned Counsel for the Respondent submitted that the Respondent harbours a serious apprehension that the Appellant may abscond with the minor children to an unknown location and may not return to India. It was submitted that such apprehension is founded on recent events and the conduct of the Appellant, including that the Appellant allegedly holds two valid passports, has sold his entire shareholding of 51% in *Asian Hotels (North) Limited through Yans Enterprises (H.K.) Ltd.* and *Fineline Holdings Ltd.* to his cousin, Ms. Shreya Agarwal and others, and has received more than ₹110 crores outside India. It was further submitted that the Appellant has resigned as Chairman and Managing Director of *Asian Hotels (North) Limited*. On behalf of the Respondent, it was submitted that the Appellant has received the sale consideration in offshore accounts in tax havens such as Mauritius and is, therefore, likely to settle in Mauritius along with the children and not return to India.

14. Learned Counsel for the Respondent submitted that, although the Appellant's family is stated to be worth more than ₹1000 crores, the Appellant is not maintaining either the Respondent or the children, thereby compelling the Respondent to seek financial assistance from her family for meeting her own needs as well as those of the children.

15. Learned Counsel for the Respondent submitted that the Appellant has no other known movable or immovable assets in India and, therefore, may flee to another country with the children. It was submitted that this is evident from the income affidavit filed by the Appellant, wherein he has stated that he has "Nil" income and is entirely dependent upon his parents for survival.



16. Learned Counsel for the Respondent submitted that the Respondent's parents reside in London and that both children are deeply attached to their grandparents. It was further submitted that, since 2024, the Respondent's parents have been booking and bearing the cost of the tickets and expenses for the London holidays of the Respondent and the children. It was further submitted that the Appellant cannot be granted interim custody of the children in London for one week without bearing the travel expenses of the children.

17. Learned Counsel for the Respondent submitted that, upon receiving the Appellant's message regarding his proposed travel plan to London, the Respondent immediately informed him of her travel plans and shared the booking details. It was further submitted that the Respondent had also offered that the Appellant could travel anywhere within India with the children before their departure for London; however, the Appellant chose not to avail of the said offer. It was also submitted that the Appellant has never travelled alone with the minor children and that all trips undertaken by him with the children in India were accompanied by the Appellant's parents; consequently, he is incapable of handling the children by himself.

18. Learned Counsel for the Respondent submitted that it is untenable for the Appellant, who claims to have no income, to now express willingness to take custody of the children in London. It was further submitted that the Appellant possesses assets across the world, which have been concealed from this Court, and that he has not even been willing to pay the doctors' fees for the children. Accordingly, it was submitted on behalf of the Respondent that the present Appeal deserves to be dismissed.



19. We have heard learned Senior Counsel for the Appellant as well as learned Counsel for the Respondent and have perused the Impugned Order.

20. The Impugned Order records that both the Appellant and the Respondent are residing in the same house with their two children, and that the Respondent, along with both children, is scheduled to travel to London for the period from 15.06.2026 to 20.07.2026. It is further recorded that the passports of the children are in the custody of the Respondent.

21. Although the learned Family Court held that dismissal of the Guardianship Petition and pendency of the Divorce Petition would have no bearing on the fate of the Interim Application, the Impugned Order observes that the learned Family Court was unable to discern any reason for the Appellant's insistence on seeking interim custody of the children from 28.06.2026 to 05.07.2026 in London, when he had the option of spending more than two weeks with them in India from 27.05.2026 to 14.06.2026. The Impugned Order further observes that the Appellant could save a substantial amount of his parents' money by planning holidays with the children in India and would also get almost double the time with them than what he sought in London.

22. In view thereof, the learned Family Court dismissed the Interim Application and granted liberty to the Appellant to take the children for holidays in India till 14.06.2026, after due intimation to the Respondent.

23. We are of the considered view that the reasoning adopted by the learned Family Court, namely that the Appellant may spend time with the children only in India and not in London, is unsupported by any material on record. The children had resided in London from 2015 to 2019 along with



the Appellant and the Respondent. There is, therefore, no basis to conclude that the Appellant may spend time with the children only in India.

24. The source from which the Appellant proposes to incur expenditure for the vacation is also not a relevant consideration for determining interim custody of the children. The Respondent's submission that the Appellant is a flight risk and may abscond with the children to a country such as Mauritius from London is misconceived. If the Appellant intended to permanently remove the children from India, such apprehension would equally arise even when the children are with him during a vacation in India. Accordingly, the submission advanced on behalf of the Respondent that the Appellant may flee with the children from London cannot be accepted.

25. In any event, the passports of the children are in the custody of the Respondent. It is highly unlikely that the Appellant would be able to procure duplicate passports while the children are in London, without the knowledge or consent of the Respondent, so as to remove the children to Mauritius. The aforesaid apprehensions of the Respondent are speculative and without any merit.

26. The principal objection of the Respondent is that the Appellant should not be permitted to have custody of the children while they are in London, as he has not borne the travel expenses. The Respondent has also submitted that the travel expenses of the children and the Respondent have been borne by the Respondent's parents and, therefore, the Appellant cannot derive benefit from the same for taking custody of the children while they are in London.



27. In view of the Respondent having no objection to the Appellant taking custody of the children while in India, her contention that the Appellant is incapable of taking care of the children alone cannot be accepted. If the Appellant can take care of the children in India, there is no reason why he cannot do so while in London as well.

28. We, therefore, find no justification for denying custody of the children to the Appellant while they are in London from 28.06.2026 to 05.07.2026, subject to the Appellant bearing the cost of the return air tickets purchased by the Respondent for the children's travel from Delhi to London and back. No prejudice would be caused to the Appellant as in any case, the Appellant intended to take the children with him to London and would have incurred their travel costs. The apprehension of the Respondent that the Appellant may abscond with the children to Mauritius can be adequately addressed by directing that the passports of the children shall not be handed over to the Appellant while they are in London and shall remain in the custody of the Respondent.

29. Accordingly, the present Appeal deserves to be allowed, and the Impugned Order is liable to be set aside. In view thereof, the following directions are issued:

- i. The Appellant shall be entitled to custody of both children in London from 28.06.2026 to 05.07.2026, during the period when the children are already scheduled to remain in London from 15.06.2026 to 20.07.2026, subject to the Appellant transferring, on or before 25.06.2026, the entire cost of the return air tickets purchased by the Respondent for the children's travel from Delhi



to London and back, into the bank account of the Respondent. It is clarified that, in the event the Appellant fails to comply with the aforesaid condition within the stipulated time, he shall not be entitled to custody of the children for the said period.

- ii. The passports of the children shall remain in the custody of the Respondent and shall not be handed over to the Appellant.
 - iii. The Appellant shall not take the children outside London during the period from 28.06.2026 to 05.07.2026.
 - iv. The Respondent shall hand over custody of the children to the Appellant at 9:00 AM on 28.06.2026, at a place in London to be decided by the Respondent and communicated to the Appellant by 5:00 PM on 27.06.2026.
 - v. The Appellant shall hand over custody of the children back to the Respondent at 5:00 PM on 05.07.2026, at a place in London to be decided by the Respondent and communicated to the Appellant by 5:00 PM on 04.07.2026.
30. Accordingly, the present Appeal is allowed, and the Impugned Order is set aside. The Appeal, along with the pending Applications, stands disposed of in terms of the aforesaid directions. There shall be no order as to costs.

TEJAS KARIA, J
(VACATION JUDGE)

MADHU JAIN, J
(VACATION JUDGE)

JUNE 22, 2026/‘gsl’