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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA**

ON THE 24th OF APRIL, 2024

MISC. PETITION No. 3588 of 2022

BETWEEN:-

**APARNA MAHAJAN D/O SHRI Y.F. MAHAJAN, AGED
ABOUT 45 YEARS, OCCUPATION: BSNL BN EMPLOYEE,
RESIDENT OF 13, SOUMYA ESTATE, B.D.A. ROAD,
AWADHPURI, BHOPAL (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI ASHISH SHROTI- ADVOCATE)

AND

**RAGHAV SHARMA S/O LATE SHRI R.D. SHARMA, AGED
ABOUT 55 YEARS, RESIDENT OF 74/4 GOVIND, GARDEN,
BHOPAL (MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI RAJNIKANT KHARE- ADVOCATE)

*This petition coming on for admission this day, the court passed the
following:*

ORDER

This petition under Article 227 of Constitution of India has been filed
seeking the following reliefs:-

"The petitioner humbly and respectfully pray that
this Hon. Court may be pleased to set aside the
order, dated 13.07.2022 & 18.07.2022, (**Annexure
P/11**) passed by First Additional Principal Judge,
Family Court, Bhopal, in MJCWG-17 of 2021.

Any other order or orders that this Hon. Court
deems fit and proper in the facts and
circumstances of the case may also kindly be
passed."

2. By this order, petitioner has challenged the order dated 18.07.2022 by which the trial Court has allowed the respondent to meet the child on every Second and Fourth Saturday of every month between 3 to 5 p.m. in the office of District Legal Service Authority.

3. It is submitted by counsel for respondent that by interim order dated 22.08.2022, this Court had stayed the further proceedings in MJCWG No. 17/2021 pending in the Court of 1st Additional Principal Judge, Family Court, Bhopal. It is further submitted by counsel for respondent that this Court may quash the orders dated 13.07.2022 and 18.07.2022 passed by the trial Court. However, the trial Court may be directed to expeditiously decide the question of custody of the child.

4. The said submission made by counsel for respondent is not opposed by counsel for petitioner.

5. It appears that the respondent had filed an application for conducting DNA test and the petitioner had refused to give consent. Accordingly, by order dated 13.07.2022, it was observed that in case if the petitioner does not give her consent, then an adverse inference shall be drawn. However, in the considered opinion of this Court, such a course is not available to the trial Court for the simple reason that the direction to conduct DNA test should not be given in a casual manner because it also violates the right of privacy. However, as the counsel for respondent has submitted that this Court may quash the order dated 13.07.2022, therefore, no further deliberation on that aspect is required.

6. Similarly, by order dated 18.07.2022, the respondent was given the visiting rights on Second and Fourth Saturday of every month to meet with the child.

7. In view of the statement made by counsel for respondent, the orders dated 13.07.2022 and 18.07.2022 are hereby **quashed**.

8. As the question of custody of child is involved in which the question of welfare of the child will also be a paramount consideration, therefore, this Court is of considered opinion that the trial Court shall make every endeavor to decide the trial as earlier as possible preferably within a period of one year from the date of production of certified copy of this order.

9. With aforesaid observations, the petition is finally **disposed of**.

(G.S. AHLUWALIA)
JUDGE

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