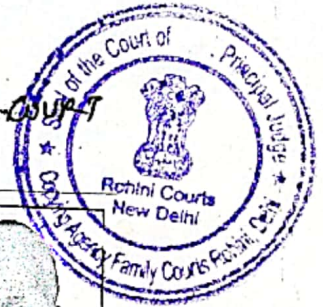


IN THE COURT OF PRINCIPAL JUDGE... FAMILY COURT  
ROHINI COURT, NEW DELHI  
CIVIL SUIT NO. \_\_\_\_\_ OF 2019



IN THE MATTER OF:

DR. CHARANJEET KAUR  
D/o Arjinder Pal Singh  
A-54 Gujranwala Town Part I,  
Delhi- 110009.

CS 19/19  
4/9/19



... PLAINTIFF

VERSUS

DR. VIJYANT SABHARWAL  
S/o J.K. Sabharwal  
Hartmannstrasse 23,  
91052 Erlangen  
Germany  
Email: [vijyant20n@gmail.com](mailto:vijyant20n@gmail.com)  
Phone no. (Germany)- +4915253381251,  
+4917640714636  
+919810366993 (India)

received for allocation  
is allocated to Mr./Ms...  
Judge, Family Courts, Rohini Court  
New Delhi For 09/9/19  
at 0 .00 M

07/9/19

Principal Judge  
Family Courts  
Rohini Court  
New Delhi

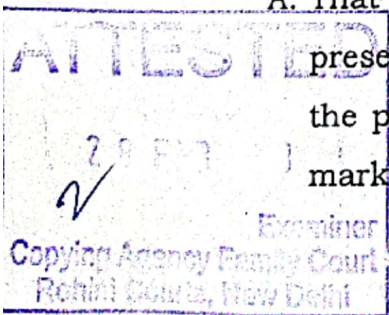
Also At:

R/o 388 Block-C, Divyajyoti Apartments  
Sector-19 Rohini, Delhi- 110085, India

.....Defendant

**SUIT FOR MANDATORY AND PERPETUAL INJUNCTION U/S 7 AND 8  
OF FAMILY COURT ACT  
MOST RESPECTFULLY SHOWETH:**

A. That the plaintiff is a law abiding citizen of this country and is presently residing in Delhi. The true copies of the passports of the plaintiff and her children have been annexed herewith and marked as ANNEXURE P-1. (copy)





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Charanjeet Kaur Vs. Vijyant Sabharwal

20.02.2023

Present: Ld. Counsel for parties.

Matter is fixed today for orders on application u/O XXXIX R  
1 & 2 CPC.

Arguments already heard.

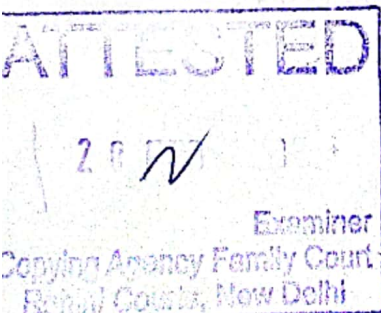
I have carefully perused the record in light of submissions  
made before me.

Brief facts necessary for disposal of present application are  
that the marriage between the parties was solemnized in Delhi on  
01.12.2011 according to Hindu rites and ceremonies. Out of the said  
wedlock, two children namely Vedaant Sabharwal and Sukrit Sabharwal  
were born on 24.02.2014 & 12.11.2017 respectively. After marriage, the  
parties stayed in India for few months and thereafter they shifted to  
Germany. Due to strained relations, the parties are living separately  
since 17.12.2018 when the plaintiff came to India with both the sons.  
Since the date of separation, the plaintiff is residing in India/Delhi with  
both the sons. The defendant has filed proceedings for divorce and  
parental custody of the children in Germany vide case bearing no. 1 F  
676/19 and case bearing no. 1 F 627/19 & 1 F 735/19. The plaintiff has  
sought injunction against the defendant for restraining him from  
pursuing the above proceedings.

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The case of the plaintiff is that the defendant has filed above mentioned false and frivolous cases in Germany in contraventions of the laws prevailing in India. It is contended that the plaintiff and both the children are citizens of India and they are holding Indian passports. Further that the plaintiff and defendant were married in Delhi according to Vedic rites and their marriage was also registered under the Hindu Marriage Act on 01.12.2011. Further that it is not workable for the plaintiff to leave her children back in India and go to Germany alone to pursue the cases. Further that the Visa of the elder son has already expired and the plaintiff has already secured a job in Delhi. Further that the plaintiff is looking after the children with the parental support and she is incapacitated to contest the cases in Germany with limited resources. Several allegations are leveled against the defendant regarding his habits and behaviour.

The defendant on the other hand has controverted the case of the plaintiff and claimed that the plaintiff has not come to the court with clean hands and she is abusing the process of law. Further that this court has no territorial jurisdiction to try the present suit as cause of action to file the present suit, if any, has arisen in Germany. Further that defendant is a permanent resident of Germany. Further that the plaintiff is a fugitive from the law in Germany and the German courts of competent jurisdiction have taken cognizance of the fact that the plaintiff has abducted the children. With certain other submissions, it is claimed

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ATTESTED

28 FEB 2019

Examiner

Copying Agency Family Court  
Rohini Courts, New Delhi

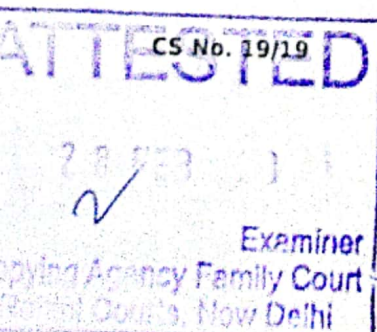
*[Handwritten Signature]*  
20/2/19



that the suit filed by the plaintiff is not maintainable and the same is also devoid of merits.

During course of arguments on the interim application for restraining the defendant from pursuing the above litigation in Germany, Id. Counsel for plaintiff has relied upon various judgments of the superior courts including *Modi Entertainment Network Vs. WSG Cricket Private Ltd. AIR 2003 SC 1177*, *Y. Narsimha Rao & Ors. Vs. Y. Venkata Lakshmi & Anr. 1991 (3) SCC 451*, *Surinder Kaur Sindhu Vs. Harbax Singh Sindhu & Anr. AIR 1984 1224 SC*, *Madhvendra L. Bhatnagar Vs. Bhawna Lal SLP No. 14948/2020 SC*, *Hari Ram Dhalumal Karamchandani Vs. Jasoti AIR 1963 Bombay 176*, *Padmani Hindupur Vs. Abhijeet S. Bellur CS (OS) 2916/2014 (DHC)*, *Arunima Naveen Takiar Vs. Naveen Takiar Suit no. 880/2014 (Bombay High Court)* in support of her contentions.

On the other hand, Id. Counsel for respondent has relied upon the judgment of Hon'ble Supreme Court in *Dinesh Singh Thakur Vs. Sonal Thakur (2018) 17 SCC 12*, judgments of Hon'ble Delhi High Court in *Paul Mohinder Gahun Vs. Shelina Gahun 2006 (90) DRJ 77 & Raaj Unocal Lubricants Ltd. Vs. Apple Energy Pvt. Ltd. & Anr. 2021 SCC Online Delhi 2395* and judgment in *The Vulcan Iron Works Co. Ltd. Vs. Bisshumbher Persad Vol. XIII The Calcutta Weekly Notes 346* in support of his contentions.



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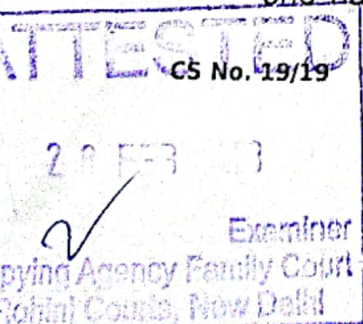


It is matter of record that during pendency of the present suit the custody petition filed by the defendant in Germany has already been decided against him on 02.12.2022.

Before proceeding further, it is necessary to make it clear that there is no bar in issuing anti suit injunction in appropriate cases pertaining to international jurisdiction. The Hon'ble Supreme Court in case of **Modi Entertainment Network** (Supra) has dealt with the issue of anti suit injunction. In the said judgment certain guidelines have been issued while exercising the jurisdiction in anti suit injunction matters.

One of the judgment relied upon by Id. Counsel for plaintiff is the judgment of Hon'ble Supreme Court in **Y. Narsimha Rao's** case (Supra) in which a detailed discussion has been held on the recognition of foreign judgments in light of section 13 of Civil Procedure Code. Various clauses of section 13 CPC have been interpreted in detail for the purpose of considering the enforceability of the foreign judgments. Though the issue of anti suit injunction is not directly in issue in the said judgment of Hon'ble Apex Court but the guidelines and discussions contained therein are helpful in deciding the maintainability/sustainability of anti suit injunction matters involving cases filed before different courts in different countries.

In the case in hand, both the parties were Indian citizens at the time of their marriage and their marriage was solemnized in India as per Hindu Marriage Act. The plaintiff/wife is in India since 17.12.2018 and she has no permanent/independent residence in Germany and clearly



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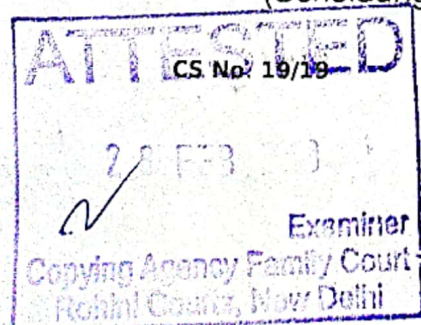


she has no support mechanism to defend a case in Germany. Both the children of the parties are also living with plaintiff in India/Delhi from the date of separation of the parties and they are having Indian Citizenship and their Visas have already expired. Further, the plaintiff has at no point of time, submitted to the jurisdiction of the German court while on the other hand, the defendant has already participated in the different legal proceedings pending in India. Moreover, the petition filed by the defendant in Germany for custody of the minor sons has already been decided against him and one of the reason for declining the relief was that both the sons are residing with their mother in India for considerable period.

Considering the above facts and circumstances, it cannot be denied that the plaintiff has a prima-facie case in her favour and the balance of convenience also lies in her favour. It can also not be denied that there are chances of irreparable loss being caused to the plaintiff if temporary injunction is not granted.

The judgments relied upon by Id. Counsel for defendant are not helpful to the defendant being based on different set of facts.

In the given facts and circumstances, the application u/O XXXIX R 1 & 2 CPC is allowed and the interim order dated 20.09.2019 passed by the Hon'ble High Court in CM (M) 1397/19, which was extended from time to time by this court, is made absolute and the defendant is restrained from pursuing the proceedings for divorce (Scheidung) in case bearing no. 1 F 676/19 and proceedings for



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parental custody (Elterlincher Sorge eA) in case bearing no. 1 F 627/19 & 1 F 735/19 in Germany during pendency of the present suit.

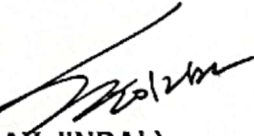
On the basis of basis of pleadings, following issues are framed:-

1. Whether the suit is not maintainable in view of the objections taken in the written statement? OPD.
2. Whether the plaintiff is entitled to the relief of injunction, as prayed for? OPP.
3. Relief.

No other issues arises of pressed upon.

Now to come up for PE by way of affidavit. Let advance copy of affidavit be supplied by the plaintiff to the defendant well in advance.

Put up for PE on 29.05.2023.

  
(SANJAY JINDAL)  
Judge Family Courts,  
North District Rohini Courts  
Delhi/ 20.02.2023(pk)

