CHILD ACCESS
&
CUSTODY GUIDELINES

ALONG WITH

PARENTING PLAN

CHILD ACCESS & CUSTODY GUIDELINES

PARENTING PLAN 2025

By

The Hon'ble High Court at Calcutta

PREFACE to the Guidelines

1. The birth of a child is one of the biggest miracles of God. However, unfortunately, in case of dispute between the parents and/ or care givers, the custody and care of the child becomes the biggest problem. This is acutely felt in divorce cases involving minor off-springs. It is the child, who bears the brunt of the entire legal battle. It is a common practice among couples to use offspring(s) as pawns, in the game of emotional chess. It amounts to irresponsible parenting which scars children emotionally, post separation.

2. In due course, the parents move on in their lives. But the children carry the trauma on being manipulated and torn apart emotionally all their lives resulting in personality problems, conduct disorder, substance abuse, criminal and antisocial inclination, major depressive disorder etc., ultimately, resulting in loss of invaluable national wealth, i.e., the child and the nation is deprived of a future productive and a good citizen.

3. Thus, for the child's lifelong emotional and mental health and stability, it is paramount that he must grow up with the feelings of love and respect towards both parents and all loved ones, especially grand- parents.

4. A child is like a sapling to be nurtured and protected so that it can grow up to be a healthy and sturdy tree. The framers of the Constitution also felt the need to make special provisions to protect the interest of the child. Under Article 15(3) of the

Constitution of India, the State is empowered to make special provisions for children.

5. The Directive Principles of State Policy, in terms of Article 39(f) of the Constitution of India, mandates the State to direct its policy towards securing "that children are given opportunities and facilities to develop in healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against moral and material abandonment".

6. It is relevant to state that as per paragraph 3(xiv) of the National Policy for Children published by the Government of India, Department of Social Welfare at New Delhi on August 22, 1974, in all legal disputes whether between parents or institutions, the interest of children are given paramount consideration.

7. Child Rights have also been a subject matter of concern, even in the United Nations. The Universal Declaration of Human Rights has proclaimed that a child is entitled to special care and assistance, being convinced that the family as a fundamental group of society, and the natural environment for growth and well being of all its members, particularly children should be afforded the necessary protection and assistance so that they can fully assume their responsibility within the community.

   They were also convinced that for the full and harmonious development of his or her personality, a child should grow up in a family environment, in an atmosphere of happiness, love and understanding.

   The United Nations promulgated the Convention on the Rights of a Child, which was adopted and opened for signature, ratification and accession by the United Nation Resolution No.

44/25 dated November 20, 1989. The said Convention came into force on 2nd September 1990 in accordance with Article 49. Article 3 of the said UN Convention of 1990 reads as follows:

"1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision."

Article 9 of the said UN Convention of 1990 reads as follows:-

> *"1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.*
>
> *2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an*

opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned."

8. From a perusal of the above Articles, it is clear that the UN Convention on the Rights of a Child also emphasized the best interest of a child to be a primary consideration and for such interest being subserved, it entails that a child shall not be separated from both of his or her parents against their will, except when, competent authorities, subject to judicial review, determine, in accordance with applicable laws and procedure, that such separation is necessary for the best interest of the child.

9. The United Nations Convention on the Rights of a Child of 1990 has been adopted by India. The said Convention has also been acknowledged and followed by the Hon'ble Supreme Court of India.

10. Thereafter, the Central Government framed National Charter for Children, 2003 (hereinafter referred to as the "2003 Charter"). The underlying intent of the Charter is to secure for every child

> *"its inherent right to be a child and enjoy a healthy and happy childhood to address the root causes that negate the healthy growth and development of children, and to awaken the conscience of the community in the wider societal context to protect children from all forms of abuse while strengthening the family, the society and the nation."*

11. The National Charter for Children, 2003, recognizes the common responsibility of both parents in rearing their children. Being relevant for the present purpose, clauses 16, 17 and 18 of the Charter are set out hereinbelow:

> *"16. All children shall enjoy freedom of association and peaceful assembly, subject to reasonable restrictions and in conformity with social and family values.*
>
> *17. Strengthening Family –*
>
> *(a) Every child has a right to a family. In case of separation of children from their families, the State shall ensure that priority is given to re-unifying the child with its parents. In cases where the State perceives adverse impact of such a re-unification, the State shall make alternate arrangements immediately, keeping in mind the best interests and the views of the child.*

(b) All children have a right to maintain contact with their families, even when they are within the custody of the State for various reasons.

(c) The State shall undertake measures to ensure that children without families are either placed for adoption, preferably intra-country adoption, or foster care or any other family substitute services.

(d) The State shall ensure that appropriate rules with respect to the implementation of such services are drafted in a manner that are in the best interest of the child and that regulatory bodies are set up to ensure the strict enforcement of these rules.

(e) All children shall have the right to meet their parents and other family members who may be in custody.

18. Responsibilities of Both Parents--The State recognizes the common responsibilities of both parents in rearing their children."

12. In terms of the Convention on the Rights of the Child, it was incumbent upon the signatory States (Countries) to take steps for protection of Child rights enumerated in the Convention. Accordingly, the Parliament enacted the "Commissions for Protection of Child Rights Act, 2005" (hereinafter referred to as the "2005 Act"), inter alia, to provide for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto. Section 2 (b) of the 2005 Act provides that "Child Rights" includes "the children's right adopted in the United Nations Convention on the Rights of the Child on the 20th November, 1989 and ratified by the Government of India on the 11th December, 1992."

13. The 2005 Act principally relates to offences against children and/ or violation of child rights and for constitution of commissions and children's courts. The 2005 Act did not take care of the joint custody or joint parenting or access of the child to the grand-parents or the issues relating to custody of child in case of separation of parents. Presently the laws governing Guardianship and Custody of minors are:

(i) The Guardians and Wards Act, 1890, and

(ii) The Hindu Minority and Guardianship Act, 1956

One is 132 years old, and the other is 66 years old and both the statutes require re-look and suitable amendments to sync with the modern-day scenario, especially in view of the fast-changing social environment and change in international conventions.

14. Presently, the basis on which the cases of custody of children are decided ostensibly is that of the "best interest and welfare of the child". The law is vague and there is no guideline, either judicial or administrative, to fill up the gap. There is an uncertainty and lack of judicial consensus on what exactly constitute welfare of the child. As a result, in fiercely fought custody battles, there are no ways to ensure that the interest of the child is actually protected. Judicial precedents vary, not from Court to Court only but vary from Learned Judge to Judge and there is no uniformity.

In such sea of uncertainty, Child Rights Foundation, an NGO established in Navi Mumbai, published a "Child Access and Custody Guidelines and Parenting Plan" in the year 2014 (hereinafter referred to as the **"said guidelines**"), inter alia, for emotionally distressed children, whose parents are going

through or have suffered a divorce. As the divorce of the parents of the child causes an irreparable scar to the emotion of the child, especially post separation of the parents, the said guidelines of joint parenting and visitation rights of both the parents, enhance the child's emotional health and stability and protect the interest of the child, which is of paramount consideration.

This Guideline is under Consideration by the Hon'ble Rule Committee.

15. This guideline has been implemented by several High Courts in India and has also been referred to before the Hon'ble Supreme Court of India.

16. In this background, the Law Commission of India prepared its 257th report called "Reforms in Guardianship and Custody Laws in India May 2015" which was forwarded to the Hon'ble Minister of Law and Justice, Government of India on May 22, 2015, wherein the Law Commission takes into account the said Guidelines.

17. The term "custody" is not defined in any family law, whether secular or religious. In the report, the Law Commission observed that in addition to uncertainty and lack of judicial consensus on what exactly constitutes best interest of the child, the legal framework is also silent as to how such custody issues are to be handled.

18. The Law Commission, a body comprised of experts, has also referred to the said Guidelines namely "Guidelines for Custody Child Support and Visitation Arrangements" made by Child Rights Foundation as aforesaid. The said guideline clearly strives to ensure that a child is not deprived of love and

affection of both his parents and near and dear ones including grandparents and also seeks to make both parents jointly liable and responsible for the welfare and wellbeing of the child including his/her mental and physical health as well as education.

19. The State of West Bengal and the Union Territory of Andaman & Nicobar Islands presently lack appropriate guidelines that would assist the Courts.

20. In the above factual matrix, a Public Interest Litigation being **WPA (P) No. 257 of 2021 was filed by Dr. Ratul Roy and Ayushman Initiative for Child Rights. Subsequently another writ petition being** WPA (P) No 166 of 2022 (Antara Vs The Hon'ble High Court At Calcutta) was filed for a direction to frame appropriate Guidelines for child access and child custody along with parental plan in accordance with the said Guidelines made by said Child Rights Foundation.

21. By an order dated 19.07.2022 The Hon'ble Division Bench presided over by The Hon'ble Chief Justice and Hon'ble Justice Rajarshi Bharadwaj referred the matter relating to framing of Guidelines on the issue of Child Access and Custody Guidelines along with Parenting Plan to the Hon'ble Rule Committee of this Hon'ble Court.

22. By an order dated 25.01.2023 The Hon'ble Rule Committee invited objections and suggestions from Learned District Judges, Director, Judicial Academy, State of West Bengal, Child Psychologists and other relevant stake holders.

23. The addressees submitted their objections and suggestions, which were included in a Paper Book and circulated by the Hon'ble Rule Committee.

24. The Rule Committee held several meetings where deliberations were made on the suggestions. By an order dated April 4, 2023, the Hon'ble Rule Committee was pleased to appoint a Sub-Committee to *"formulate a draft guidelines ….in line with discussions held in the meeting…*".

25. On August 24, 2023, the Sub-Committee submitted its first report, which was discussed by the Hon'ble Rule Committee in its meetings.

26. In the meeting held on 9.04.2024, the Hon'ble Rule Committee requested the Sub-Committee to prepare a modified Guideline incorporating the suggestions received subsequently. It was directed that new insertions are to be marked in Red ink and deletions are to be marked in Green Ink. The Report was to be filed by April 30, 2024 and the next meeting was fixed on May 10, 2024. However, due to unavoidable circumstances the Sub-committee prayed for extension of time which was granted till June 14, 2024.

27. In May 2024, Japan amended its law of child custody introducing **Joint Custody (or shared parenting).** Japan was the last of **the G-7** Countries, namely Canada, France, Germany, Italy, Japan, UK and USA, to introduce Joint Custody also called "shared custody" which the proposed guideline aims at.

28. Hon'ble Supreme Court in the meantime has passed judgements recognizing and approving joint/shared custody of children including the judgement passed in SLP (C) No 28466 of 2023 (Col. Ramneesh Pal Singh Vs. Sugandhi Aggarwal) dated May 8, 2024.

The Sub-Committee had meetings on 26th May, 2024, June 8,

2024, June 9, 2024 and June 11, 2024 and finalized the modified Guidelines in accordance with the direction of the Hon'ble Rule Committee.

29. The modified Guideline was sent by e-mail to the Learned Registrar (Judicial Service) of this Hon'ble Court on June 12, 2024.

30. The Rule committee acknowledges the extensive work done by the members of the Sub-Committee, who have strived to suitably modify the Guidelines so that the best interest of the child is sub-served in matters of child custody, joint parenting and access before the Courts of competent jurisdiction in State of West Bengal and Union Territory of Andaman & Nicobar Islands.

31. In a meeting of the Rule Committee held on September 24, 2024, the Guidelines were finally approved along with the Preface thereto.

SOUMEN SEN, J. (PRESIDENT)

ARIJIT BANERJEE, J.

SUVRA GHOSH, J.

CHILD ACCESS & VISITATION GUIDELINES

BY

CHILD RIGHTS FOUNDATION

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CHILD ACCESS & CUSTODY GUIDELINES

Along with Parenting Plan

By

The Hon'ble High Court at Calcutta

A serious need is felt for approaching the Hon'ble Principal Judge Family court to set proper guidelines for the Family Courts regarding access, visitation and custody, as this will help in disposing off the cases quickly in a scientific manner ensuring that the right of the child to be showered with the love and affection of both the parents is not lost or delayed.

I. *Under Section 10(3) of the Family Courts Act the Principal Judge has the powers to frame rules.*

II. *When making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child's parents to have equal shared parental responsibility for the child While determining the best interests of the child:*

III. *The primary considerations are:*

a. *Ensuring benefit to the child of having spend equal or substantial or significant time to develop a meaningful relationship with both the child's parents and to ensure an implement of overnight access so that the child gets love and affection of not only both the parents but also of grandparents, uncles , aunties, cousins etc thereby ensuring that the family heritage is maintained; and*

b. *Ensuring the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.*

INTRODUCTION:

The recent trend in the society is seeing a paradigm change in the matrimonial relationship. The numbers of divorce cases are rising, particularly in the last decade, more and more middle and lower-middle class couples have been approaching family court for divorce, resulting in rise of bitter child custody battles. Often, the innocent children are used as tools of vengeance by vindictive litigants who inflict severe emotional and psychological abuse on the child thereby seriously affecting the child in his/her later part of life . Failure in marriages is sometimes due to lack of awareness or realization among the litigants where often one of the partner suffers from a personality disorder and/or adjustment disorder which can be easily diagnosed through psychological evaluation.

A serious need is felt for approaching the Hon'ble court as well as HC to set proper guidelines for the Family Courts, as this will help in disposing off the cases quickly in a scientific manner rather than on speculation.

In family disputes, litigants often make false and vindictive allegations against each other, wasting & consuming enormous court's time which can be reduced considerably.

Further it would also help to some extent in reconciliation of marital disputes.

Presently, even the Legal system, bureaucrats, politicians, statutory agencies for child welfare, NGO's etc., have forgotten or missed to appreciate or understand child rights as well as the immense emotional trauma that innocent children undergo in the process of custody litigation and parent separation due to lack of love and affection from both the parents.

Depriving love & affection of both parents, more particularly due to alienation of the child by the custodial parent and or denial of proper access to the non-custodial parent by the courts without realizing the serious consequences caused in the later part of the child's life such as drug abuse, deteriorating educational achievement, premature sexuality, mental/personality disorder, chronic depression, suicidal tendency, out of wed-lock birth, and often a major force behind serious crimes.

There is an urgent need to establish well defined framework and guidelines for family courts and the counselors to implement while deciding the custody of the children.

Delay in action or callous approach, what kind of future society/generation are we going to create.

Needless, to say today's youth are going to be leaders & thinkers of tomorrow. The Nation's future depends upon today's children. Hence, immediate intervention of higher courts must.

Presently these issues are being decided in an absolutely subjective fashion by the family court seriously affecting the mental health of the tender children as well as specific violations of UN Convention on rights of the Child.

One of the fundamental rights of the children is to get love and affection from both the parents (irrespective of parent's conflict), right to quality of life and survival, and right to be cared, right to develop a sense of belonging, right to participate fully in family, cultural and social life.

We would like to bring specific focus to Article 39(e) & (f), the state shall direct its Policy in such a manner that the tender age of children is not abused and children are given opportunities and facilities to develop in a healthy manner and childhood is protected against exploitation and against moral and material abandonment.

While framing guidelines a clear distinction needs to be made between the Rights of the Child versus the Rights of a Parent (which invariably ends up being interpreted as Rights of only the mother).

These guidelines should be followed by the Learned Civil Courts and Family Courts and wherever custody of child is involved including under The Protection of Women From Domestic Violence Act, 2005.

The Family Courts are free to make rules under Section 10(3) of the Family Courts Act, 1984.

In cases where allegations of child abuse (including under POCSO) are made and it appears to the court that such allegations are made with a view to manipulate custody arrangements or alienate the child, such matters must be prioritized for resolution on preferably day-to-day hearing basis. When allegations are found to be false, severe actions should be taken against the perpetrators including imposition of heavy costs and shift of the custody of the child to prevent lasting harm to the child parent relationship India and the *UNCRC

The UNCRC – United Nations Convention on the Rights of the Child (UNCRC) a clarion of worldwide movement and the pinnacle of international effort to promote the basic needs of children as fundamental human rights is a remarkable and wonderful gift to the children which is given a 'go by' by our current legal system. (India along with 193 countries has also agreed to undertake the obligations of the Convention by ratifying to it as on December 2008).

Child Custody Affidavit

Before deciding custody of any child, the concerned Court/Forum shall direct both the parties to file child custody affidavit in accordance with the format being Annexure “X” to this Guidelines. The format of Child Custody Affidavit is annexed as Annexure “X”. It is also made clear that all child custody applications must be accompanied by the Child Custody Affidavit as per Annexure “X” herein.

“The application should be made complying with Section 11 of the Guardians and Wards Act, 1890”

CHILD VISITATION GUIDELINES

The parent with primary custody of the child shall be referred to herein as the "custodial parent" and the other parent shall be referred to as "non-custodial parent" which expression shall include grandparents, siblings and other relatives or a "fit person" within the meaning of section 2(i) of the juvenile Justice (Care and Protection of Children) Act, 2000.

These guidelines shall apply to both interim and final child visitation rights.

Visitation shall mean and include regular visitations, weekend visitations, festivals, pujas, religious functions, birth day, anniversary celebrations, marriage in the family and medical emergencies of non-custodial parent.

The Courts will have the powers to appoint Ammicus Curiae, Child Welfare Expert and Special Officers who will exercise powers under Section 12 of the Family Courts Act, Order 26 Rule 9, Order 32 Rule 3 and 4 and Order 40 Rule 1 of the Code of Civil Procedure, 1908 and emphasis may be given at interim custody stage

Immediately within one week from the date of service of summons or the first meeting with the counselor for mediation and conciliation, parties shall draw up an interim visitation plan.

The basic principles of the courts are to ensure that the child/children get(s) to spend equal or substantial and significant time to be showered with love and affection from both the parents irrespective of parent's conflict.

Efforts should be made by parties and if necessary, court should direct parties to mutually agree upon a visitation schedule to be drawn up along with the Marriage Counselor within a maximum period of 60 days. Pending, finalization of mutual final overnight visitation agreement, an interim access has to be worked out immediately.

If the parties cannot agree on visitation, their first alternative is to mediate the conflict. Visitation is for the primary benefit of the child. Visitation should not be viewed as a privilege to be exercised at the whim of either parent, but as a responsibility that should be fulfilled as a necessary cause. The custodial parent is expected to provide access of each child at unscheduled times if requested and if to do so would not unreasonably disrupt prior planned activities of the child or the custodial parent.

Prior to referring the parties to mediation, the Court may, at its discretion make an interim arrangement for visitation in course of pendency of the mediation.

REINTRODUCTION OF ABSENT PARENT: The Guidelines assume that each parent has been a continuous presence in the children's lives. In the event that a parent has had limited or no contact with his or her children and wishes to be reintroduced into the children's lives, it is up to the parents to agree on the means by which this is to be accomplished. If the parents are unable to agree, the first alternative shall be to mediate the conflict. If mediation is unsuccessful, it shall be the responsibility of the Court to adopt a schedule to ease the reintroduction.

The Courts should grant visitation rights via a Parenting Plan within a given time frame of three months to foster continuous and meaningful child – parent relationships.

The Courts can shift custody of the child inter alia on the following grounds:-

a) Repeatedly not allowing the contact between the non-custodial parent and the child thereby abusing the child.

b) Alienation of affection of the non-custodial parent.

c) Speaking in a derogatory or degrading manner about the other parent or using other tactics to demean the other parent.

d) The custodial parent removes the child to a distance jurisdiction thereby the child being completely deprived of physical contact with the non-custodial parent.

The Court shall not pass a decree for divorce unless the child or children's maintenance, education and custody arrangement is made.

The parents should mandatorily file along with the pleadings a sworn detailed proposed parenting arrangement/plan for the children.

In the final decree, in the absence of agreement of parties the Learned Court should draw a parenting plan for the parents.

To prevent non-compliance and parental alienation, the following measures are recommended at the discretion of the Court concerned –

a) *Awarding compensatory or substitute access for lost visitation days.*

b) *Imposing heavy fines or costs for each breach of visitation orders.*

c) *Directing the alienating parent to undergo counseling.*

d) *Shifting of custody of child in severe cases at the discretion of the Court concerned.*

Visitation schedules can only be modified by approval of the Court concerned.

CHAPTER 1

INTERIM VISITATION

The following visitation guidelines should balance the needs of both the parents and the child, regardless of whether that child has older siblings that enjoy extended visitation with the non-custodial parent. Interim visitation shall be for at least three hours per week.

A. VISITATION (CHILDREN AGED BETWEEN 0 TO 36 MONTHS)

1. WEEKENDS: The Non-custodial parent shall be entitled to weekend visitation every week as per the discretion of the Court. While exercising such discretion, Court shall have due regard to the peculiarities of the facts on case to case basis.

2. WEEKDAY VISITATION: The Non-custodial parent may also be conferred upon a visitation right for such number of days every week between Monday to Friday as the Court may deem proper, while directing visitations on weekdays, the Court shall take into consideration, the activity schedule of the child and also the convenience and inconvenience of the parties amongst other factors.

3. HOLIDAYS: The non-custodial parent shall be entitled to spend at least 3 Three hours with the child on the holidays or on festival days including 15th August, 26th January, 1st May, 2nd October (Gandhi Jayanti), 14th November (Children's day) excluding the time of travel. Only where it is not possible to make such arrangements during the holidays or the festival days due to reasons of distance or otherwise, alternative arrangements can be made to ensure that the child gets the company of the non-custodial parent on any other day for an equivalent period. In odd-numbered years, the Non-custodial parent shall be entitled to spend holidays and festival days with the minor child and in even numbered years, the schedule shall be reversed. A party's entitlement to Holiday visitation overrides the other party's right to regularly scheduled weeknight or weekend visitation. If either or both parties celebrate other holidays, such holidays should be written down, divided and alternated each year.

B. VISITATION (CHILDREN 36 MONTHS AND OLDER)

4. WEEKENDS: The Non-custodial parent shall be entitled to one nightvisitation every weekend or as the Court may decide taking into account, the relevant factors.

5. WEEKDAY VISITATION: If the parties reside within fifty (50) Kilometers distance from each other, the Non-custodial parent shall have visitation two (2) evening per week, but shall exercise the weekday visitation in the locale of the child's primary residence. The preceding sentence shall not preclude occasional travels beyond the fifty (50) Kilometers for special weekday events. The weekday visitation shall be on the same evening each week and varied only if it conflicts with the holiday or vacation schedule. If the parties cannot agree on the weeknight and if there areno scheduled activities for Wednesday, it shall be Wednesday evening for 2 hours or as per discretion of the Judge concerned. If there are activities scheduled for Wednesday, the Non-custodial parent shall have first choice of an alternate weekday for weekday visitation

6. HOLIDAYS: The non-custodial parent shall be entitled to spend at least Three (3) hours on holidays and festival day excluding the time of travel. Only where it is not possible to share during the holidays and festival day due to reasons of distance or otherwise. A party's entitlement to Holiday visitation overrides the other party's right to regularly scheduled weeknight or weekend visitation. If either or both parties celebrate other holidays, such holidays should be written down, divided and alternated. In the absence of an agreement, the court shall allocate religious holidays between the parties.

7. CHILDREN COMPLEX ROOM: Where access even though either agreed by mutual consent or ordered by the court is not being granted to the non-custodial parent, Children's complex room situated in the premises of the Family Courts or such other place as either mutually agreed or directed by the court such as premises made available and approved by the Hon'ble Family court shall be used for purposes of counseling the child or the parent for a specific period and thereafter access can continue as per schedule set forth.

7A. Notwithstanding anything contained above, the Court may, by using its own discretion and keeping in mind, the factual matrix of each case, draw up a schedule of interim visitation if the mediation fails. However, the Court shall, whileframing such schedule, consider the benefit of the child as the primary factor and shall also take into account, the convenience of the parents, as far as practicable. Notwithstanding anything contained in the foregoing provisions, the parties shall be at liberty to mutually agree upon variation of the schedule of interim visitation if circumstances so warrant, subject to approval of the Court.

(i) The Court may also fix a minimum duration for every single visitation.

(ii) The place of each of such visitations may be fixed by the parties prior hand, keeping in mind the child's comfort and interest. Efforts should be made by the Court to avoid the visitations from occurring at the Court premises or at any advocate's chamber or at any other place, which may not be conducive for the child.

(iii) If, under any circumstance, a session of interim visitation is needed to be altered, the parties shall be at liberty to do so, subject to approval by the Court. However, if the Court chooses to appoint any special officer to oversee the interim visitation procedure, the parties shall immediately inform the special officer of the reason for such variation/alteration of the schedule and of the rescheduled date, when they want such visitation to be done.

(iv) If any session of visitation is wanted to be avoided by any party on the ground of any unavoidable circumstances or discomfort of the child, that session can be rescheduled at the agreement of both the parties. However, if the Court chooses to appoint any special officer to oversee the interim visitation procedure, the parties shall immediately inform the special officer of the reason of the such variation/alteration of schedule and the Special Officer may personally see or talk to the child, and upon satisfaction, may allow the parties to reschedule the session to any date of their convenience.

(v) APPOINTMENT OF SPECIAL OFFICER DURING PENDENCY OF APPLICATION FOR VISITATION: If the Court finds it necessary, the Court may, at any stage of the proceedings, appoint any special officer to oversee the entire visitation process. The Special Officer shall record his observations after every visitation and shall submit a report to that effect before the Court at regular intervals as the Court may deem fit.

The special officers to be appointed must have maturity or field experience. They may be child psychologist or social worker or mutual relative or friends of parties or a learned advocate. The role of the special officer shall be non intrusive and mediatory.

(vi) Notwithstanding anything, if there is any allegation or complaint of trauma or mental suffering caused to the child owing to the presence of the non – custodial parent or otherwise, the Court shall appoint a fit and proper person as a special officer to oversee the visitation sessions and to file a report with his observations regarding the same. On the basis of such report, the Court may alter the visitation schedule and/or the place of visitation and may also impose such further or other terms, as the Court may deem proper for the welfare and benefit of the child.

CHAPTER – 2

FINAL CHILD VISITATION GUIDELINES PENDING CUSTODY ORDER OF THE HON'BLE COURT.

8. GENERAL PROVISIONS

The parent with primary custody (parent who is having custody of child since birth and is taking care of the day to day and hour to hour need of the child) shallbe referred to herein as the custodial parent, and the other parent shall be referred to as the Non-custodial parent.

9. ACCESS VISITATION SCHEDULE:

i. If the parties cannot agree on visitation, their first alternative is to mediate the conflict. Even if mediation does not work, then the court can pass an appropriate order in terms of the visitation schedule for parties to comply. Special reasons may exist to alter this visitation schedule such as: age of the child, health, special care needs, etc.

ii. Within a period of not more than 60 days parties shall draw up and finalize afinal schedule of visitation as per chapter 3 below. Notwithstanding anything contained in the foregoing and following provisions, the parties shall be at libertyto vary the schedule of visitation, subject to approval of the Court, or the Learned Judge may also, at his discretion, vary the schedule, if circumstances so warrant.

iii. On the visitation schedule being drawn and agreed upon between the custodial and the non-custodial parent the counselor shall have the same duly executed by the parties and the same shall be placed on record for the approval of the Learned Court. Parties shall comply with the agreement infull and any violation shall give rise to cause of action to the aggrieved party to seek appropriate directions from the Court. The place of each session may be fixed by the parties prior hand keeping in mind the child's comfort and interest.Efforts should be made by the Court to avoid the visitations from occurring at the Court premises or at any advocate's chamber or at any other place not conducive for the child.

A. The no-contact or limitation-of-contact provisions of any domestic violence case, injunction case, juvenile case, or criminal case supersede any contact provisions set forth in these guidelines. That is, the no-contact or limitation-of-contact provisions of any domestic violence case, injunction

case, juvenile case, or criminal case should be followed as set forth by the judge in that case. It may be necessary to seek a modification of the no-contact or limitation-of-contact provisions in order to facilitate visitation.

B. The term “local” shall apply to parties residing within 200 Kilometers of each other.

C. The term “non-local” shall apply to parties not residing within 200 Kilometers of each other.

10. ENFORCEMENT OF VISITATION SCHEDULE: If the parties cannot agree on visitation, their first alternative is to mediate the conflict. Even if mediation does not work then the court can pass an appropriate order in terms of the visitation schedule for parties to comply.

11. MEDICATION, ILLNESS OR ACCIDENT: If medication or therapy has been prescribed for the child, then both parents shall without fail provide the child all medical prescription dosages, treatment and/or therapy as may be prescribed for the child. The parents shall share the health care professional's name and phone number as well as instructions for treatment. If the child becomes ill or is involved in an accident, and treatment by a medical professional is obtained, the parent who has the child at the time of the illness or accident shall notify the other parent as soon as practicable but no later than three (3) hours after the incident or diagnosis. Illness of the child shall not prevent visitation withthe child, unless the child is hospitalized. Non-custodial parent can visit the child in hospital.

[If any session of visitation is wanted to be avoided by any party because of any unavoidable circumstances or owing to discomfort of the child, such session can be rescheduled at the agreement of both the parties. However, if the Court chooses to appoint any special officer to oversee the visitation procedure, the parties shall immediately inform the special officer of the reason of such variation/alteration of the schedule and the Special Officer shall personally see or talk to the child, and upon satisfaction, may allow the parties to reschedule the session to any date of their convenience or may refer the matter to the Court.]

12. COMMUNICATIONS: Provided that both parents have telephones in their homes, the child shall be entitled telephone communication at least once every day with both parents. Each parent shall immediately deliver to the child all letters, cards, e-mails, correspondence, telephone messages, gifts, toys, clothes and other items sent to that child by the other parent. Neither parent shall withhold, return, destroy, give away, sell or otherwise dispose of any such items. If either parent plans a vacation or trip out of town with the child for three (3) days

or more, that parent must provide the other parent with a general itinerary, a phone number where the child can be reached, and the dates of departure and return. Each Parent shall provide the other Parent promptly upon being requested to do so, with information concerning the well-being of said children including, but not limited to; monthly school attendance reports, reports concerning completion of homework, copies of report cards, school meeting notices, vacation schedules, class programs, requests for conferences, results of diagnostic tests, notices of activities involving said children, samples of school work, order forms for school pictures, communications from health care providers; the names, addresses and telephone numbers of all schools, preschools, regular day care providers, all health care providers, counselors, or other activity supervisor, and friends, schoolmates and relatives.

13. SCHEDULED EVENTS: Both parents shall be entitled and are encouraged to attend and participate in the child's special events, such as school programs, graduation, sports, recitals, and other extracurricular activities. When the child has extracurricular activities, the parent caring for the child when the activity is scheduled should assure the child's attendance. Each parent shall advise the other parent of extracurricular activities in which the child participates within twenty-four (24) hours of notification of an event or activity. Each parent shall make an effort not to schedule activities for the child that interferes with the other parent's visitation time with the child.

14. ADDITIONAL VISITATION: The Non-custodial parent shall be entitled to exercise other reasonable visitation in the locale of the child's primary residence or at other places likeclub, place of worship, shop, ground, mall, upon reasonable notice subject to a minimum of 12 hours notice to the custodial parent whenever. There may be need where the non-custodial parent may wish and desire that the child should be present on certain occasions such as poojas, religious functions, birthdays, anniversary celebration, inaugurations, marriage, or emergenciessuch as untimely death or hospitalization of a close relative such as grandparent/relations etc. In such circumstances the custodial parent shall allow access of the child immediately.

15. ADEQUATE AND CLEAN CLOTHING FOR VISITATION: Adequate and clean clothing shall be supplied by the custodial parent and all these clothes shall be returned in the same clean condition by the Non-custodial parent to the custodial parent after each visitation period.

16. INTENT TO RELOCATE: Neither party to the suit can relocate unless final visitation rights agreement as set out is signed and finalized.

17. NOTICE OF INTENT TO RELOCATE: In the event that either parent intends to relocate outside of local area of residence of the non-custodial parent, he/she shall provide the other parent with ninety (90) days written notice prior to any

relocation. This is a notice provision only and does not eliminate the need for court approval of such relocation if legally necessary. In the event such relocation does take place and the custodial parent is permitted to relocate and further if the non-custodial parent in order to be able to be near thechild and for the sake of the child also chooses to relocate then under such circumstances the non-custodial parent on relocation shall enjoy the same access schedules as already decided and agreed without any alterations. In the event the non-custodial parent's status changes from 'Non-local' to 'Local' the access schedule shall also likewise change and the non-custodial parent shall be entitled to all provisions of local access.

18. CHANGES IN ADDRESS AND PHONE NUMBERS: Neither parent shall conceal the whereabouts of the child from the other parent. Each parent shall advise/disclose to the other parent at all times of the residence address and telephone number where the child will be as well as the parent's work telephone number. If a residence or telephone number changes, the parent making the change shall notify the other parent personally or by telephone within twenty-four (24) hours and in writing within seventy-two (72) hours of the change.

19. CHILD SUPPORT / MAINTENANCE: Non-payment or late payment of child support is NOT an acceptable reason to deny or interfere with visitation. Conversely, denial of visitation is NOT justification for non-payment or late payment of child support. Child support and child visitation are separate and independent issues and are not to be manipulated by either parent to gain leverage over the other parent with regard to visitation or child support. Child support shall NOT stop during visitation periods, unless provided by court order.

20. FLEXIBILITY AND THE BEST INTERESTS OF THE CHILD: The parents may agree to change this schedule to meet the needs of their child. The parents are encouraged to put such changes in writing. If the parents do not agree to visitation schedule changes, they must adhere to these guidelines, or a parent in violation may be held in contempt of court.

21. SHIFT OF CUSTODY: FOR REASONS OF CHILD ALIENATION / TUTORING / MIND POINSONING / BRAINWASHING / PARENTAL ALIENATION SYNDROME : In the event it is observed or alleged by concrete substantive evidence or material placed on record enumerating instances as listed below the court shall proceed to seriously entertain and decide that the custody of the child be shifted from the custodial parent to the non-custodial parents on their being conclusive evidence to substantiate either any one or more of the following :

A custodial parent who unjustifiably punishes her divorcing or divorced Non-

Custodial parent by:

i. *Attempting to alienate their mutual child(ren) from the Non-Custodial parent.*

ii. *Any act, deed done or caused to be done by the custodial parent which may lead to the infringement of the right of the non-custodial parent's visitation.*

iii. *Involving others in malicious actions against the Non-Custodial parent.*

iv. *Engaging in excessive litigation.*

v. *The custodial parent specifically attempts to deny her child(ren)regular uninterrupted visitation with the Non-Custodial parent.*

vi. *Uninhibited telephone access to the Non-Custodial parent.*

vii. *Obstructs or causes any obstruction in the Non Custodial parents participation in the child(ren)'s school life and extracurricular activities.*

viii. *The pattern is pervasive and includes malicious acts towards the Non-Custodial parent including:*

ix. *Lying to the children*

x. *Lying to others*

xi. *Violations of law Or Making False Complaints*

xii. *The disorder is not specifically due to another mental disorder although a separate mental disorder may coexist.*

22. NEW SPOUSE OR COMPANION: The parents shall not encourage the child to call a new spouse or companion “Papa” “Mummy” “Father”, “Dad”, “Mother”, “Mom”, or similar names, as such is detrimental to the child's relationship with his/her natural parents and may confuse and adversely affect the child. A substitute name may be suggested or encouraged. Each parent shall encourage a new spouse or companion not to confront or to interfere with the other parent's contacts or visitation with the child and each parent is expected to prevent any such confrontation or interference. The other parent shall not be adversarial or hostile to a new spouse or companion but shall be courteous, polite, respectful, and non-threatening. Unless otherwise ordered or agreed by the parties, the parents are expected to speak directly with each other concerning all matters related to a divorce or separation judgment or order.

23. NAME OF THE CHILD & SURNAME: The custodial parent shall not be entitled to change the name or the surname of the child which has been given to the child as

per either a ceremony performed for the same or the name along with the father's surname as it appears in the birth certificate.

24. CHANGE OF SCHOOL OR DAYCARE CENTRE: The custodial parent shall not be entitled to admit, change the school or the daycare centre of the child without written consent and/or agreement between the parties. If the issues is not being resolved then such admission, change of school/daycare centre of the child shall be as per the order of the court.

25. REMOVAL OF CHILD FROM DAYCARE OR SCHOOL: In the absence of prior agreement between the parties and proper notification of the daycare or school - except in the event of an emergency - the Non-custodial parent shall not remove the child from daycare or school for visitation or otherwise. This paragraph shall not be applied to preclude the Non-custodial parent's participation as a parent in school activities and access to the child at school, to the same extent as afforded the custodial parent, nor to prevent the Non-custodial parent from picking the child up after school or daycare if such pickup is pursuant to the parties' visitation arrangement.

26. CANCELLATION BY NON-CUSTODIAL PARENT

    A. Local (parties residing within 200 Kilometers of each other)

    i. Twelve (12) hours' notice shall be given by the parent entitled to visitation with the child if visitation will not be exercised for the weekday or weekend.

    ii. A minimum of Three (3) days notice shall be given by the parent entitled to visitation for a holiday if visitation will not be exercised.

    iii. A minimum of Fifteen (15) days' notice shall be given in writing by the parent entitled to visitation for a period of one week or greater if visitation will not be exercised.

iv. The parent seeking cancellation shall arrange and pay for babysitting, childcare or other appropriate visitation of the child for the visitation period; to the extent such expense is due to the cancellation. Any visitation cancelled by the non-custodial parent shall be forfeited, unless the parties agree to substitute visitation. The required cancellation notice is given; the custodial parentshall not unreasonably withhold substitute visitation.

27. NOTICE - NON-LOCAL (PARTIES NOT RESIDING WITHIN 200 KILOMETERS OF EACH OTHER):

    i. A minimum of three days (3 days) notice shall be given by the parent entitled to visitation for a holiday or special occasion if visitation will not be exercised.

A minimum of Fifteen (15) days' notice shall be given in writing by the parent entitled to visitation for Diwali, Christmas, Summer vacations or an annual visitation period of one (1) week or greater if visitation will not be exercised. If the cancellation is NOT agreed to by both parents, the parent seeking cancellation must arrange and pay for child care or other appropriate supervision of the child for the visitation period, to the extent such expense is due to the cancellation. Any visitation cancelled by the non-custodial parent shall be forfeited, unless the parties agree to substitute visitation. If the required cancellation notice is given, the custodial parent shall not unreasonably withhold substitute visitation.

ii. ADDITIONAL VISITATION**:** The Non-custodial parent shall be entitled to exercise other reasonable visitation in the local of the child's primary residence upon reasonable notice to the custodial parent.

28. TRANSPORTATION

A. Local (parties residing within 200 Kilometers of each other): The Non- custodial parent shall pick up the child for visitation and the custodial parent shall pick up the child after visitation. A third party, agreed to by both parents, may substitute for one of the parents in transporting the child to and from visitation. The parties should reasonably consider a parent's current spouse or a family member of the child as a substitute. A party who moves and therebycauses an increase of more than thirty (30) Kilometers in distance between the two parents, shall bear responsibility for transportation in absence of Court intervention. The place of pick up and drop of the child shall be agreed to in writing by both the parents. However, the place of pick up and drop shall either be the residence of the custodial parent or the family court children'scomplex or as ordered by the Hon'ble court.

B. Non-local (parties not residing within 200 Kilometers of each other): The court shall decide the issue of transportation on a case by case basis of absence of an agreement by the parties.

29. WAITING: A child shall be picked up or delivered within thirty (30) minutes of the scheduled time of exchange. If the Non-custodial parent is more than thirty (30) minutes late to pick up the child for visitation and creates a hardship as a result, visitation shall be forfeited for that visitation period. If legitimate reasons exist for delay in picking up the child for any weekend or longer visitation, and beginning the visitation the next day does not create a hardship on the custodial parent, the Non-custodial parent may pick up the child at a mutually agreed upon time later in the visitation period. The Non-custodial parent shall give the custodial parent

as much notice as reasonably possible of any delay in picking up the child.

30. AMENDMENTS: Parties can vary; alter the interim access schedule as per convenience within a period of one week from the date of presentation of the petition before the Hon'ble court or within one week from the date of their meeting with the counselor for mediation whichever is earlier. In the event parties fail to arrive at a decision and conclude on the interim visitation schedule then the counselor shall draw up an interim visitation schedule and place the same before the Hon'ble court to be made final by an order of the court.

31. OVERNIGHT ACCESS: *Courts are under obligations to consider the child spending equal time, or substantial and significant time, with each parent and if necessary and/or possible, with the grandparents.* In making a parenting order the court 'must consider' making orders that the child spend equal time, or if not equal then substantial and significant time, with each parent. 'Substantial and significant time' is defined to mean, essentially, weekdays and overnight weekends and holidays, times that allow the parent to be involved in the child's daily routine as well as occasions and events that are of particular significance to the child or the parent child to maintain or consolidate a secure attachment with a parent whose behavior is oriented only to 'visiting' rather than 'care-giving'.

Children have the right to know and be cared for by both their parents, regard - less of whether their parents are married, separated, divorced, have never married or have never lived together; and

Children have a right to spend time on a regular basis with, and communicate on a regular basis with, both their parents and other people significant to their care, welfare and development (such as grandparents and other immediatefamily members & relatives); and

Children have a right to enjoy their culture (including the right to enjoy that culture with other people who share that culture).

Over Night Access at home of the non-custodial parent should be encouraged at an early stage so that the children have a close and continuing relationship and get the love, affection of not only parents but also of grandparents and other immediate family members like uncle, aunties, cousins etc. The healthy emotional development of children depends upon their early experience of a continuous, emotionally available care-giving relationship, through which they are able to form an organized attachment, and to develop their human capacities for thought and relationships essentially,

Children have their right to childhood of hopeful existence free of exploitations,

neglect. Children need consistent support system as well as love, hope and encouragement, all these things and more are required in order to experience childhood to the fullest and to eventually develop into a healthy, capable adult for the full and hormonal development of his or her personality children should grow up in a family environment in an atmosphere of happiness, love and understanding which is very important for their overall growth and well being. The children should be fully prepared to live life in society, in the spirit, dignity tolerance, freedom, equality and solidarity. However young children are subjected to exploitation especially in a broken marriage where the court has to intervene to protect the rights of the child. Children have to be ensured that the their right to parental access, right to quality of life, right to be cared for, and right to freedom of expression is not compromised and children get love and affection from both parents and grandparents and immediate family members. They should have a sense of belonging to a healthy family environment maintaining their heritage so that the genealogy of the child is not lost after attaining adulthood and they are able to be linked with their ancestors. Overnight access should therefore be encouraged at an early stage.

CHAPTER – 3

LOCAL GUIDELINES

(PARTIES RESIDING WITHIN 200 KILOMETERS OF EACH OTHER)

C. FINAL VISITATION (CHILDREN BETWEEN AGE 0–TO-36 MONTHS)

Minimum Visitation should be at least 4 hours per week.
The following visitation guidelines should balance the needs of both parent and child, regardless of whether that child has older siblings that enjoy extended visitation with the Non-custodial parent.

32. WEEKENDS: The non-custodial parent shall be entitled to weekend visitation every week as per the discretion of the Court. While exercising such discretion, Court shall have due regard to the peculiarities of the facts on case to case basis. One of the most important considerations is attachment with both the parents. It is important for visitation to provide opportunities to establish a bond between the child and the parent. Generally, frequency of visitation is given more consideration than duration of visitation. Making up for less frequent visits by increasing the length of time of visits is not recommended for infants recommended daily visits, but if this is impractical, then visits should be spaced no more than two days apart. There is research, however, to show that overnight visits with the parent can occur, provided that the parent has been a significant caretaker and a primary attachment figure. Where grandparents stay separately, the children may be allowed to stay with grandparents too, subject to approval by the Court on such terms, as the Court may impose for the welfare of the child.

33. WEEKDAY VISITATION: The Non-custodial parent may also be conferred upon a visitation right for such number of days every week between Monday to Friday as the Court may deem proper, while directing visitations on weekdays, the Court shall take into consideration, the activity schedule of the child and also the convenience and inconvenience of the parties amongst other factors.

34. HOLIDAYS: The non-custodial parent shall be entitled to spend at least 3 Three hours with the child on the holidays or on festival days including 15th August, 26th January, 1st May, 2nd October (Gandhi Jayanti), 14th November (Children's day) excluding the time of travel. Only where it is not possible to make such arrangements during the holidays or the festival days due to reasons of distance or otherwise, alternative arrangements can be made to ensure that the child gets

the company of the non-custodial parent on any other day for an equivalent period. In odd-numbered years, the Non-custodial parent shall be entitled to spend holidays and festival days with the minor child and in even numbered years, the schedule shall be reversed. A party's entitlement to Holiday visitation overrides the other party's right to regularly scheduled weeknight or weekend visitation. If either or both parties celebrate other holidays, such holidays should be written down, divided and alternated each year.

Notwithstanding above the stay of the child during any long vacation exceeding 5 days whenever practicable, would be divided between the custodial parent and the non-custodial parent and also grandparents, as per agreement between the parents or as may be approved by the LearnedJudge.

The Learned Judge concerned should see that the agreement between the custodial parent and the non-custodial parent should contain provisions to divide the stay of the child during holidays between the custodial parent, non-custodial parent and the grandparents, if they are willing, so far as possible in equal durations.

Note: For children aged between 0 to 36 months it shall be open for the custodial parent to remain present during visitation for such duration as may be decided by the Learned Court.

i. Visitation shall be from 11:00 a.m. until 2:00 p.m. or from 4:00pm to 7:00pm on the official holiday or at the discretion of the Learned Court.

ii. Mother's day Shall be spent with the mother every year with priority over any other visitation schedule; visitation hours shall be from 11:00 a.m. until 2:00 pm or 4:00pm to 7:00pm.

iii. Father's day shall be spent with the father every year with priority over any other visitation schedule; visitation hours shall be from 11:00 am. until 2:00 p.m. or 4:00pm to 7:00pm

iv. Diwali / Eid / Moharram / Makarsakaranti / Janmashtmi / Mahavir Jayanti / Mahashivratri / Ramnavami / Parsi New Year / Bijoya / Laxmipooja / Bhai Phota / Gurunanak Jayanti / Raksha Bandhan / Navratri / Ganesh Chaturthi / Anant Chaturthi / Holi visitation to the non-custodial parent shall be for a period of 3 three hours excluding travelling time and timings shall be decided between the parties mutually.

35. FESTIVALS WEEKEND OVERNIGHT ACCESS : Festivals which last for more than seven days especially Navratri, Ganpati and Ramzan and for which long

holidays are not available to the child the non-custodial parent shall be entitled to one weekend overnight stay during this stretch of festival. A party's entitlement to this festival weekend overnight stay overrides the other party's right to regularly scheduled weeknight or weekend visitation.

36. MOTHER'S BIRTHDAY: shall be spent with the mother every year. If the mother is the Non-custodial parent and the mother's birthday is on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation hours shall be from 5:00 p.m. until 8:00 p.m. If the mother's birthday is on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. This visitation will not affect holiday visitation.

37. FATHER'S BIRTHDAY: shall be spent with the father every year. If the father is the Non-custodial parent and the father's birthday is on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation hours shall be from 5:00 p.m. until 8:00 p.m. If the father's birthday is on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. This visitation will not affect holiday visitation.

38. CHILD'S BIRTHDAY: The child shall celebrate his or her birthday with the Non-custodial parent in odd-numbered years and the custodial parent in even-numbered years. In years that the child spends his or her birthday with the Non-custodial parent, if the child's birthday falls on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation shall be from 5:00 p.m. until 8:00 p.m.; if the child's birthday falls on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m.. The parent holding a birthday party for the child may wish to consider inviting the other parent.

39. ANNUAL VISITATION FOR CHILDREN (UNDER AGED 0-TO-36 MONTHS): Unless otherwise agreed to by the parties, regular weekend and weekday visitation shall be maintained year round in lieu of a designated annual visitation period.

D. FINAL VISITATION (CHILDREN 36 MONTHSAND OLDER)

40. WEEKENDS: The Non-custodial parent shall be entitled to weekend visitation every other weekend. Visitation shall begin Friday at 6:00 p.m. and end at 6:00 p.m. on Sunday. If parties wish to avail continuous every week access then every weekend access shall begin from Friday at 6.00 p.m. and end on Saturday 6.00 p.m. or Saturday 6.00 p.m. to Sunday 6.00 p.m. It is not the responsibility of the custodial parent to provide food or shelter for the child during the Non-custodial parent's visitation.

41. WEEKDAY VISITATION: If the parties reside within thirty (30) Kilometers distance of each other, the Non-custodial parent shall have visitation two (2)

evening per week for 2 two hours between 6.00 p.m. to 8.00 p.m., but shall exercise the weekday visitation in the locale of the child's primary residence or within the radius of 10 ten kilometers. The preceding sentence shall not preclude occasional travel beyond the thirty (30) Kilometers for special weekday events. The weekday visitation shall be on the same evening each week and varied only if it conflicts with the holiday or vacation schedule. If the parties cannot agree on the weeknight and if there are no scheduled activities for Wednesday, it shall be Wednesday evening. If there are activities scheduled for Wednesday, the Non-custodial parent shall have first choice of an alternate weekday for weekday visitation.

42. HOLIDAYS: The non-custodial parent shall be entitled to spend at least 4 Four hours on the holiday or festival day including 15th August, 26the January, 1st May (Maharashtra day) , 2nd October (Gandhi Jayanti), 14th November (Children's day) excluding the time of travel. Only where it is not possible to share during the festival day due to reasons of distance or otherwise. In odd-numbered years, the Non-custodial parent shall be entitled to spend with the minor child; in even numbered years, the schedule shall be reversed. A party's entitlement to Holiday visitation overrides the other party's right to regularly scheduled weeknight or weekend visitation. If the parties celebrate religious holidays other than those defined in sections A and B below, those religious holidays shall be mutually agreed upon in writing, divided, and alternated each year. In the absence of an agreement, the court shall allocate those religious holidays between the parties..

    i. Visitation shall be from 11:00 a.m. until 3:00 p.m. or 4.00 p.m. to 8.00 p.m. on the official holiday.

    ii. Mother's day Shall be spent with the mother every year with priority over any other visitation schedule; visitation hours shall be from 11:00 a.m. until 3:00 p.m. or 4.00 p.m. to 8.00 p.m. Father's day shall be spent with the father every year with priority over any other visitation schedule; visitation hours shall be from 11:00 a.m. until 3:00 p.m. or 4.00 p.m. to 8.00 p.m.

    iii. Diwali / Eld / Moharram / Makarsakaranti / Janmashtmi / Mahavir Jayanti / Mahashivratri / Ramnavi / Parsi New Year / Dussera / Laxmi poojan / Bhau Bheej / Gurunanak Jayanti / Raksha Bandhan / Navratri / Ganesh Chaturthi / Anant Chaturthi / Holi visitation to the non-custodial parent shall be for a period of 4 Four hours excluding travelling time and timings shall be decided between the parties mutually.

    NOTE: Non-custodial parent shall be entitled to take the child at his residence

during this period of access.

43. FESTIVALS WEEKEND OVERNIGHT ACCESS : Festivals which last for more than seven days especially Navratri, Ganpati and Ramzan and for which long holidays are not available to the child the non-custodial parent shall be entitled to one weekend overnight stay during this stretch of festival. A party's entitlement to this festival weekend overnight stay overrides the other party's right to regularly scheduled weeknight or weekend visitation.

44. FIFTY % VACATION: The non custodial parent shall be entitled to 50% of each vacation during the year the child has vacations for Durga Puja, Christmas and Summer.

45. MOTHER'S BIRTHDAY: shall be spent with the mother every year. If the mother is the Non-custodial parent and the mother's birthday is on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation hours shall be from 5:00 p.m. until 8:00 p.m. If the mother's birthday is on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. This visitation will not affect holiday visitation.

46. FATHER'S BIRTHDAY: shall be spent with the father every year. If the father is the Non-custodial parent and the father's birthday is on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation hours shall be from 5:00 p.m. until 8:00 p.m. If the father's birthday is on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. This visitation will not affect holiday visitation.

47. CHILD'S BIRTHDAY: The child shall celebrate his or her birthday with the Non-custodial parent in odd-numbered years and the custodial parent in even-numbered years. In years that the child spends his or her birthday with the Non-custodial parent, if the child's birthday falls on Sunday, Monday, Tuesday, Wednesday, or Thursday, visitation shall be from 5:00 p.m. until 8:00 p.m.; if the child's birthday falls on Saturday or Sunday, visitation shall be from 11:00 a.m. to 4.00 p.m. The parent holding a birthday party for the child may wish to consider inviting the other parent.

E. CHILDREN IN DIFFERENT AGE GROUPINGS:

i. If there are two (2) or more children whose ages span different age groupings entitling the children to different visitation periods with the Non- custodial parent, then the younger children shall get the benefit of the oldest child's visitation schedule.

ii. This provision does not apply to children aged between 0 to 36 months. Parents of a child aged between 0 to 36 months must follow the visitation

schedule for that child regardless of whether or not the child has older siblings on a different schedule.

48. SCHEDULING ANNUAL VACATION:

i. The Non-custodial parent shall have first choice of annual vacation visitation and shall designate such choice in writing no later than March 1 of each year. Subject to the Non-custodial parent parent's designated choice on or before March 1, the custodial parent shall designate in writing his or her choice for annual vacation by March 15th of each year.

ii. The custodial parent's annual vacation shall be scheduled around the Non-custodial parent's annual vacation and may override no more than one (1) weekend and three (3) weeknight regularly scheduled visitation periods of the Non-custodial parent.

iii. A parent's first choice of annual vacation shall not interfere with the other parent's entitlement to the child's birthday or the Durga Puja Holiday.

iv. Unless specifically prohibited by Court order, either parent may temporarily remove the child from the jurisdiction of the court for purposes of annual visitation only if the parent travelling with the child provides the other parent with a written general itinerary and phone numbers where the child can be contacted during the vacation.

v. Annual vacation shall not conflict with the school calendar.

CHAPTER - 4 NON-LOCAL GUIDELINES

(PARTIES NOT RESIDING WITHIN 200 KILOMETERS OF EACHOTHER)

49. VISITATION (CHILDREN AGED BETWEEN 0 TO 36 MONTHS)

Visitation for children under 36 months old shall be established by the court on a case-by-case basis.

50. ADDITIONAL VISITATION: The Non-custodial parent shall be entitled to exercise other reasonable visitation in the locale of the child's primary residence upon reasonable notice to the custodial parent.

51. VISITATION (CHILDREN AGED 36 MONTHS & OLDER)

52. WEEKENDS: The Non-custodial parent shall be entitled to at least one weekend visitation every week. Visitation shall begin either on Saturday and / or Sunday at 11:00 a.m. and end at 6:00 p.m. It shall be open for the parties to work out more than one visitation per week as per mutual agreement.

Notwithstanding anything, the Court may, having regard to the peculiarities of the facts of each case, alsootherwise pass necessary directions for weekend visitations on such terms, as theCourt may deem fit.

53. HOLIDAYS: If the parties celebrate religious holidays other than those defined in above paragraphs, those religious holidays shall be mutually agreed upon in writing, divided, and alternated each year. In the absence of anagreement, the Court shall allocate those religious holidays between the parties. The Court shall also look into the agreement of the parties and shall have power to alter or modify the same keeping in view the welfare of the child.

54. FIFTY % VACATION: The non custodial parent shall be entitled to 50% of each vacation during the year the child has, such as Durga Puja, Christmas and Summer vacation.

Note: In case the non-custodial parent is unable to avail vacation access during a particular year or a period for reasons beyond his/her control,he/she shall be entitled to compensatory access to the child in addition to his/her normal/usual entitlement to visitation for the next period/year, as the case maybe.

55. ANNUAL SUMMER VACATION: Visitation shall be as follows:

A. CHILDREN IN DIFFERENT AGE GROUPINGS: If there are two (2) or more children whose ages span different age groupings entitling the children to different visitation periods with the Non-custodial parent, the younger children get the benefit of the oldest child's visitation schedule. This provision does not apply to children under aged between 0 to 36.

Parents of a child aged between 0 to 36 months must follow the visitation schedule for that child regardless of whether or not the child has older siblings on a different schedule.

56. SCHEDULING ANNUAL VACATION: The Non-custodial parent shall have first choice of annual vacation and shall designate such choice in writing no later than April 1 of each year. Subject to the Non-custodial parent /parent's designated choice on or before April 1, the custodial parent may plan an annual vacation and shall notify the Non-custodial parent of those dates by April 15th of each year.

i. A parent's first choice of annual vacation shall not interfere with the other parent's entitlement to the child's birthday, unless the Non-custodial parent will be denied the full annual visitation period if the custodial parent exercises visitation on the child's birthday. If the child's birthday falls within the anticipated summer school break, and if the parties are unable to reach a specific agreement about an annual vacation schedule, the parties shall mediate the annual vacation scheduling issue before final hearing, unless mediation is excused by court order. If the parties are unable to resolve the annual vacation schedule issue through agreement or mediation, the parties shall present the issue to the court before entry of a final visitation order.

ii. Unless specifically prohibited by Court order, either parent may temporarily remove the child from the State of Maharashtra for purposes of Annual Visitation only if the parent traveling with the child provides the other parent with a written general itinerary and phone numbers where the child can be contacted during the vacation.

iii. Annual vacation shall not conflict with the school calendar.

CHAPTER – 5

JOINT CUSTODY

57. PRINCIPLE: The most fundamental principle underlying child rights is the inherent right of every child to be brought up in the secure comfort of a family environment and to enjoy the love and affection of both its parents. These are rights enshrined in the U.N. Charter for Child Rights, 1989, which has been adopted and ratified by India and also National Charter for Children2003 made and published by the Central Government and also amendments suggested by the Law Commission of India in its 257th Report in the heading Reforms in Guardianship and Custody Laws in India, May 2015. Worldwide the G-7 Countries, namely, Canada, France, Germany, Italy, Japan, UK and USA have already recognized by law about joint custody. The last was Japan, who amended their Law in May 2024. Apart from the above, in many decisions, the Hon'ble Supreme Court has also recognized and approved joint custody in the latest being Judgment dated May 8, 2024 in SLP (C) No. 28466 of 2023.

58. RESIDE ALTERNATELY: That child may reside alternately, one week with the custodial parent and one week with non-custodial parent, and that both custodial and non-custodial parent share joint responsibility for decisions involving child's long term care, welfare and development;

Provided that, if the child is of very young age and require nourishment from the mother herself, the Court should discourage joint custody but should provide more importance on visitation rights of the father.

However, if the Court is of the opinion, or if it is apparent from the record as well as from the report of the special officer, if any, that one of the parents is violent or may be harmful to the child, in such cases, the Court might discourage joint custody.

Provided that, in all such cases, the Court shall keep a strong vigil over the incidents and may make alternative arrangements keeping in mind proper rearing and upbringing of the child in question. For such purpose, the Court may direct the child to be consulted by a psychiatrist for proper evaluation of his/her mind frame and the effect of the behavior of the parents.

45. *JOINT ACTIVITIES:* Keeping in mind the object of the welfare of the child and to ensure beneficial presence of every parent in his/her life, the Court might

frame some conditions of joint activities to be performed by both the parents together with the child, which might be both outdoor and indoor activities. The Court may also direct the custodial parent to ensure that the child is well engaged in co-curricular activities so as to ensure a proper and healthy mental growth of the child.

46. ALTERATION OF CUSTODY: The Court may, from time to time, for the benefit of the child, direct the custodian parent to present the child before an empanelled psychiatry expert, and upon his/her advice, may alter the custody of the child.

The Court may, also, upon an application from any of the parent alleging discomfort and/or deterioration of the physical and/or mental condition of the child or on other sufficient grounds, may reconsider the question of custody and may alter the same. However, before altering the terms of custody, the Court must remain extra cautious and shall only resort to such alteration of custody if and only if the Court is satisfied that all other remedies appear to be absolutely futile.

ACCLAMITIZATION IN NEW FAMILY: If the parents get married or get into relationship with any other partner, the Court must ensure that the child is given ample care and time to get acclimatized to the new family. In such cases, the Court may, suo motu or upon receiving an application from the other parent, enquire of the child through a psychiatric expert about his/her feelings and emotions towards the new spouse or partner of the concerned parent and may make alterations in the custody scheme, if found necessary.

CHAPTER 5 A

PARENTAL ABDUCTION AND INTERNATIONAL CUSTODY DISPUTES

Learned Courts/ Forums should impose stringent restrictions on a custodial parent relocating or removing the child to another country without the consent of the non-custodial parent and without prior approval of the Learned Court/ Forum concerned.

If demed fit, the courts may require:

a. Written undertaking from the custodial parent on matters relating to access rights and custody of the child to the non custodial parent.

b. The custodial parent may be directed to furnish security at the discretion of the Learned Court/ Forum to prevent unlawful relocation or removal of child.

c. Submission of travel details to the court before allowing any international travel.

d. In case of removal of the child to another country in violation of written undertaking given to court , the Learned Court/Forum may initiate suitable penal measures including contempt of court and, compensation to the non-custodial parent.

CHAPTER - 6

59. PSYCHIATRIC AND PSYCHOLOGICAL EVALUATION OF PARENTS AND THE CHILD.

A. Under Section 12 of the Family Courts Act, 1984, the Court is empowered to secure the services of medical experts; the scope of Section 12 envisages: For settling a problem the Judge of the Family Court cannot merely take his own personal decision. Under this section, he has to rely and consult an expert as while deciding the dispute between husband and wife, the fate and future of innocent children, if there are any, has to be kept in mind. The Judge therefore will have to act as all in one. If either or both litigants are quarrelsome, the altercations definitely lead to litigation on various grounds and their children will be the worst sufferers. In such cases the opinion of medical and welfare experts will be of much use.

B. The family Court either on an application by one of the litigant or the court suo motto while exercising its discretion to conduct a psychiatric / psychological evaluation of both the parents including the child in order to ensure that custody is given to the emotionally and mentally fit parent, thus ensuring welfare of the child. Procedure for such psychological evaluation shall be as per procedure prescribed.

C. Failure in marriages is sometimes due to lack of awareness or realization among the litigants where often one of the partner suffers from a personality disorder and/or adjustment disorder which can be easily diagnosed through psychological evaluation.

D. The child/children are psychologically evaluated (by play therapy) to determine stress, depression level & also any bad tutoring or poisoning of mind to alienate the child from other parent. On diagnosis if confirmed the child is assisted through, intervention of psychological counseling.

E. In fact Supreme Court has come down heavily for not using the services of medical experts by the lower courts as provided under sec 75e of CPC. (Ref: Sharda versus Dharampal (2003) 4 SCC 493))

60. PSYCHOLOGICAL EVALUATION:

This schedule provides for assistance of medical and welfare experts to be sought and taken by either of the parent either suo moto by the Family Court or on an application by either party; to secure the services of the medical expert or

such person including a person professionally engaged in promoting the welfare of the family as the court may thing fit for the purposes of assisting the Family court.

I. PSYCHIATRIC AND PSYCHOLOGICAL EVALUATION OF PARENTS AND THE CHILD.

Under Section 12 of the Family Courts Act, 1984, the Court is empowered to secure the services of medical experts; however, the family Court rarely uses the same. The scope of Section 12 envisages: For settling a problem the Judge of the Family Court cannot merely take his own personal decision. Under this section, he has to rely and consult an expert as while deciding the dispute between husband and wife, the fate and future of innocent children, if there are any, has to be kept in mind. The Judge therefore will have to act as all in one. If either or both litigants are quarrelsome, the altercations definitely lead to litigation on various grounds and the children will be the worst sufferers. In such cases the opinion of medical and welfare experts will be of much use.

Should it not be mandatory for the family Court either on an application by one of the litigant or the court suo moto while exercising its discretion to conduct a psychiatric / psychological evaluation of both the parents including the child in order to ensure that custody is given to the emotionally and mentally fit parent, thus ensuring welfare of the child.

In fact Supreme Court has come down heavily for not using the services of medical experts by the lower courts as provided under sec 75e of CPC. (Ref: Sharda versus Dharampal (2003) 4 SCC 493))

A common practice followed in US courts while deciding child custody by conducting Psychological evaluation tests such as MMPI, Rorschach ink blot test etc., which reveals any litigant suffering from any mental/personality disorder, drug abuse, alcoholic, manipulative, tendency to speak lies, tendency to abuse/physical attack towards spouse etc.

However, if in the event both the parties/litigants are refusing or do not find necessary to be evaluated, then the court should follow the Primary caretaker principle as detailed in para III below. And if either one of the litigant (child's father or mother) refuses then as per law adverse inference shall be drawn.

The child/children are psychologically evaluated (by play therapy) to determine stress, depression level & also any bad tutoring or poisoning of mind to alienate the child from other parent.

On diagnosis if confirmed the child is assisted through, intervention of psychological counseling.

Often Indian courts fail to differentiate between psychosis & mental disorders. Individuals suffering from mental disorders are often intelligent but with very poor emotional state, (high intelligent quotient but poor emotional quotient), who tend to suffer from uncontrolled rage & temperament, violent, aggressive, manipulative, & often speak lies. This can be diagnosed only through specific psychological tests. Hence, merely interviewing litigants by the court will never give a clue whether the individual is suffering from mental/personality disorder except psychosis.

In fact Family Courts should resort to referring litigants for diagnosis to such reputed and high caliber psychologists/psychiatrists identified/appointed by the Family Courts / High Court.

While referring litigants for the conduct of psychiatric and psychological evaluation, Courts need not be concerned as regards the expenses involved as Rule 21 of The Family Courts (Maharashtra) Rules, 1987 provides for the same, wherein expenses (including travelling expenses) are to be paid out of the revenues of the State Government. However, if the litigants are willing the same may be born by the respective litigants.

61. GENERAL

a. The parent with primary custody (parent who is having custody of child since birth and is taking care of the day to day and hour to hour need of the child) shall be referred to herein as the custodial parent, and the other parent shall be referred to as the Non-custodial parent.

62. CHILD'S WISHES:

Often the Family court decides the child's custody based on the wishes of the child during an interview which the court conducts on the child of tender age who is not his own master and is not capable of forming any intelligent, prudent or well reasoned preference of a parent.(in other words if child expresses he/she is unwilling to go to school, will the Family court honour the wishes,).

The court has to ensure the welfare and the best interest of the child's upbringing and not to be influenced by the mere wish of the child especially in some cases where the child is heavily tutored or brainwashed or poisoned against the non-custodial parent while deciding custody.

THE GENESIS OF FASLE ACCUSATION

An award winning book published by the American Psychological Association shows just how easily children can be manipulated to give false accounts that bad things have happened to them.

In one study children were simply asked to repeatedly think about whether different events had ever happened to them, such as getting their finger caughtin a mousetrap and going to the hospital to get the trap off. After ten sessions, more than half the children told false stories about the fictitious events in their lives. In fact, their stories were so elaborately embellished with details that experts could not detect which events were real and which were not. Even more remarkable, after the researches told the children that the events never really happened, many of the children continued to insist that they remembered the fictitious events occurring.

One four-year-old-boy had already been told by his parents that the whole mousetrap story was just in his imagination and that nothing like this ever happened. Yet when Stossel asked the boy if he ever got his finger caught in a mousetrap, with his parents beside him, this child said he remembered the event and then gave a detailed account. Stossel reminded him that his parents already said that it never happened, but the boy protested. “It really did happen, Iremember it.”

In another study, a stranger named “Sam Stone” visited a preschool classroom. He said hello, walked around the room for two minutes, then said good-by and left. That was it. He touched nothing. During the next ten weeks, the children were interviewed four times and asked to describe Sam Stone’s visit. One month following the fourth interview, another adult interviewed the children, this time asking about two events which did not occur, “Did Sam Stone do anything to a book or a teddy bear?”

The investigators learned that they could produce false reports of Sam Stone’s behaviour both by bad-mouthing Sam Stone and by asking the children leading, suggestive questions. The bad-mounthing took the form of telling stories to the children, prior to Sam Stone’s visit, about Sam Stone’s clumsiness. For example:

“You’ll never guess who visited me last night [pause] that’s right. Sam Stone! And guess what he did this time? He asked to borrow my Barbie and when he was carrying her down the stairs, he tripped and fell and broke her arm. That Sam Stone is always getting in to accidents and breaking things.

The day after Sam Stone’s visit, the children were shown a soiled teddy bearthat had not even been in the room during Sam’s visit. They were asked if they knew how the teddy bear had been soiled. An example of a suggestive question was

following: “Remember that time Sam Stone visited your classroom and spilled chocolate on that white teddy bear? Did he do it on purpose or was it an accident?”

By the time of the final interview, an astounding 72 percent of the youngest preschoolers falsely incriminated Sam Stone. Like the children in the mousestrap study, they embellished their stories with fabricated details, such as reporting that they saw Sam Stone on his way to the store to buy chocolated ice-cream. And, once again the children fooled the experts.

The investigators showed videotaped interviews of the children to specialistswho interview children for purposes of criminal investigators and who treat children suspected of having abused. These experts were confident in their judgements about which events really occurred and which were made up. But the experts were wrong. In fact the very children they rated as most accurate were the children who were least accurate. Substitute Mommy or Daddy for Sam Stone and you begin to see how children can be manipulted to give convincing, yet false, negative reports about a parent.

False beliefs about abuse hurt children beyond the damage done by the alienation. A child who believes that she has been sexually abused by a relative can develop problems similar to those of a child who has actually suffered abuse. The child comes to distrust her caretakers in the same way she would if actually abused. Her view of sexuality is corrupted at an early age and this may lead to problems in sexual adjustment as an adult. Her ability to trust in close relationships is impaired. This may interfere with her relationships throughout her life.

Thus a child can be manipulated to create alienation.

As held by the Hon’ble Supreme Court in SLP (C) No. 28466 of 2023, in the Judgment dated May 8, 2024, that Parental Alienation Syndrome (PAS) is a thoroughly convoluted an intricate phenomenon that requires serious consideration and deliberation and there cannot be any straight jacket formula to invoke the principle of PAS as laid down in (2017) 3 SCC 231 (Vivek Singh – Versus – Romani Singh) and the Courts must endeavour to identify individual instances of “alienating behaviour” in order to invoke the principle of PAS so as to overcome the preference indicated by the minor children.

Interviewing Children with Parental Alienation Syndrome : As held by the Hon’ble Supreme Court in SLP (C) No. 28466 of 2023, in the Judgment dated May 8, 2024, Parental Alienation Syndrome (PAS) is a thoroughly convoluted and an intricate phenomenon that requires serious consideration and deliberation and there cannot be any straight jacket formula to invoke the principle of PAS as laid down in (2017) 3 SCC 231 (Vivek Singh – Versus – Romani Singh) and the Courts must endeavour to identify individual instances of “alienating behaviour” in order to invoke the principle of PAS so as to overcome the preference indicated by the

minor children.

> The opinion of the child or wish cannot determine overall welfare of the child or determine custody. To evaluate PAS the court shall take the view of child welfare officers or counsellors and in appropriate cases may evaluate the child by a professional child psychologist while interviewing or determining the phenomenon of PAS. The Courts must endeavour sufficient and adequate access (preferably unsupervised) of the child with the alienated parent to foster natural attachment and bonding.

Children suffering with a parental alienation syndrome may present the judge with a convincing picture. By the time the child reaches the judge, he or she has developed a well-rehearsed litany of complaints against the presumably hated parent. This can be quite convincing, especially because the script has probably been rehearsed many times over with the allegedly preferred parent. Also, by the time the child reaches the judge, he or she has probably presented the scenario to a variety of attorneys and mental health professionals. This has given them the opportunity to practice and sharpen their speeches. There have been a number of occasions when judges have been completely taken in and have not appreciated that they were being handed a "bill of goods:' These children have a way of "snow balling" even experienced psychologists and psychiatrists, so one cannot be too critical of judges here. Present below are series of questions that judges should find useful when interviewing these children. It is important to appreciate that the questions provided here relate to the more common situation, the one in which the father is the hated parent and the mother the loved one. However when the situation is reversed (the mother the hated one and the father the loved one) One should obviously reverse the questions.

Describe your custodial parent (mother / father) to me. Children with parental alienation syndrome typically provide only positive responses. If any negatives are provided, they will usually be minimal. If asked to elaborate upon the negatives, only inconsequential criticisms will be provided. Children who are "normal" or suffer with other kinds of psychiatric disturbances will generally be able to list both positives and negatives about each parent. The complete idealization of a parent is a clue to the presence of this disorder.

Describe your non-custodial parent (mother / father) to me. The child with parental alienation syndrome will enumerate various criticisms at great length. These will be both present and past. Often the past indignities will be about experiences that other children would consider normal or would have forgotten long ago. Sometimes a complaint will be about an event which the child has not actually observed but which the mother has described. The child will accept as valid the mother's rendition and not give any credibility to the father's refutation. When it is pointed out to the child that few if any positives have been described, the child will

claim flatly that there are none. Inquiries into past good times between the child and the father will be denied as nonexistent or the child will claim that these events were painful and the child's professed enjoyment of them stemmed from the fear of punishment for not doing so. It is this complete one-sidedness of the response, the total absence of normal ambivalence, that should alert the interviewer to the fact that one is probably dealing with a child suffering with parental alienation syndrome.

How do you feel about your Non-custodial parent's (father / mother) family? The child with a parental alienation syndrome will generally respond that all members of the father's extended family, even the child's own grandparents and previously loved aunts, uncles and cousins, are somehow obnoxious and vile. When asked for specific reasons why there is absolutely no contact at all with any of these individuals, no compelling reasons are provided. Often inconsequential reasons are given. Attempts to impress upon the child how important it is to have relationships with these loving relatives is futile. The child extends the noxious view of the father to the father's extended family. The child will describe no sense of loss or loneliness over this self-imposed removal from the father's extended family. If a potential or actual stepmother is involved with the father, this hatred will extend to her and her extended family as well.

Does your custodial parent (mother / father) interfere with your visiting with your Non-custodial parent (mother / father) ? Generally the child will describe absolutely no interference on the mother's part. Often the child will proudly describe the mother's neutrality and state that the decision is completely his or her own.

Why then don't you want to visit with your (Non-custodial parent) father / mother? The child may give very vague reasons. When asked to give specific reasons these children may describe horrible abuses in a very convincing way. In addition, they often provide gross exaggerations of inconsequential complaints. They make "mountains out of mole hills" and will dwell on frivolous reasons for not visiting. Often they will claim that they want absolutely no contact at all with the father for the rest of their lives, or at least not before they are adults. When it is pointed out to these children that the vast' majority of other children would not cut their fathers off entirely, forever, for such "indignities:' they insist that their total rejection is justified.

Does your mother / father (custodial parent) harass or bother you? Healthy children generally will give some examples of "harassment" such as being made to turn off the television, do homework, or go to bed earlier than they want. Children with parental alienation syndrome describe no such harassments. They often will describe their (custodial parent) mother as being perfect and as never asking them to do things they don't want. This is obviously a fabrication and is a manifestation of the whitewash of the mother. You use the word harassment with these children because it is a common expression utilized by mothers of parental alienation

syndrome children. The father's (non-custodial parent's) overtures for involvement with the child are generally referred to as harassment by the mother (custodial parent). If the child is unfamiliar with the word harassment, It can be substitute by "bother you a lot."

Does your father (non-custodial parent) harass you? These children are likely to describe in great detail the (non-custodial parent's) father's "harassments." Generally, they involve attempts on his part to gain contact with the children. Letters, telephone calls, and legal attempts to gain visitation are all clumped under the term "harassments." Although the father's initial overtures may have been spaced reasonably, with mounting frustration over rejection and alienation, the father's overtures increase in frequency and intensity. The love and affection that is at the foundation of these overtures is denied completely by both the mother and the parental alienation syndrome child. Rather, they are viewed simply as onerous harassments. The above questions are general ones. The judge does well to ask more specific questions pertinent to the particular case. These might include questions regarding why the child wants to change his or her name back to the mother's maiden name, why the father's Presents were thrown in the garbage (usually in the mother's presence), why the child wants to have the father still contribute to his or her education even though he or she never wants to see the father again, what the brother's and sister's reasons are for not wanting to see the father (these too often prove inconsequential). and so forth.

Judges who interview children in chambers must be made aware of the fact that these children may be very convincing. They may be taken in by the litany of complaints and give such weight to the child's statements that they may go along with the child's stated preference. Judges must be alerted to the primary manifestations of this disorder, especially the complete lack of ambivalence, the dwelling on frivolous and inconsequential "indignities," the total removal from the extended family of the hated parent, the absolute denial of any positive input on the hated parent's part at any time in the child's life, and the definite statement that the child wishes never to see the hated parent again throughout the remainder of his or her life. It is hoped that judges will increasingly appreciate what is occurring when they see such children and rectify the situation in accordance with the guidelines to be presented. Under the circumstances of brainwashing, tutoring, poisoning, to alienate the child from the non-custodial parent, the Custody should be shifted from the custodial parent to the non-custodial parent who will ensure the child with love and affection of both the parents.

CHAPTER – 7

63. ROLE OF COUNSELORS

Court counselor is duty bound to counsel child to ensure access especially in case of bad tutoring against the non custodial parent rather than being indifferent or a mute spectator. Role of the counselor in family courts has to be proactive to succeed in effecting healthy access to the non-custodial parent

a. Regular quarterly workshops has to be conducted to the counselors as well as to the Judges of the family court by the reputed psychiatrists and psychologists for continuous updation and orientation to handle the sensitive issues.

b. Under Rule 27 of the Family Courts Rules 'counselor report' may be allowed to be supplied to the litigant.

c. Counselor should be stopped from recommending their opinion to court in regard to whom the custody, court has to grant. (amounting to exercise ofjudicial powers by non judicial officer).

d. Cost of the psychological evaluation shall be borne by the litigant urging the court seeking the evaluation of his or her spouse. Rules however provide that the expenses in this regard shall be borne by the state.

e. It shall be the endeavor of the Counselor to ensure that a healthy bonding is developed between the child and the non-custodial parent and for this the counselor shall make every attempt to counsel and prevail upon the custodial parent to provide healthy, substantial and significant access of the child to the non-custodial parent.

SPECIAL PROVISIONS

64. Cases when none of the parents are suitable for the custody of the child:

(a) *In situations, when none of the parents is found to be suitable or capable of having the custody of the child, the Court may, either on its own discretion or on an application, may put the child into the custody of a responsible next to kin, such as the grandparents or other near relatives. For such purpose, the Courts may also take into account the provisions laid down under the Juvenile Justice (Care and Protection of the Children) Act, 2015, if found appropriate and necessary.*

Provided that, before giving the child into the custody of such next to kin, the Court must arrive at a definite finding that the welfare of the child shall not be under any threat by the said person. However, visitation rights shall always be available with the parents barring exceptional cases.

(b) *In cases when no such next to kin is found available or eligible, the Court may entrust the custody of the child with a Foster home or similar institution by putting stringent and appropriate conditions for such custody so as to ensure that the welfare of the child is not hampered in anymanner.*

(c) *The Court may, in cases enumerated in clauses (a) and (b), appoint a special officer, who may visit the child in regular intervals to keep a track ofhis progress and welfare and shall submit a report to the Court to that effect.*

65. CASES WHEN CUSTODIAN PARENT LIVES ABROAD: In situations when the custodian parent is not a resident of India, the Court may pass appropriate directions in accordance with law following the provisions of the Hindu Minority and Guardianship Act, 1956, that has extraterritorial operation.

66. CASES WHEN NON – CUSTODIAL PARENT LIVES ABROAD: In situations when the non – custodial parent is not a resident of India, the Court might put more focus on visitation, especially throughonline mode and should ensure that owing to such distance and situation, the child is not suffering from any parental alienating syndrome, either wilfully induced by the custodian parent or by natural manner. In such cases, if the Court feels so, the Court should immediately refer the child to an empanelled psychiatrist and ask the non – custodian parent to make more frequent visits, if possible, to ensure that the child is not deprived of his love and affection. The non-custodial parent shall also be entitled to custody during vacations of the child.

LIMITATION PERIOD: If any spouse chooses not to apply for custody within 90 days from the date when he or she has been deprived of the access to the child, the Court may draw an adverse inference against such parent as regards his/her bonafide and/or real urge to take proper care of the child and in such cases, the Court may refuse to admit such petition.

Provided that if sufficient cause can be shown by the applicant explaining the reason behind his or her delay in filing such application, the Court may condone such delay and hear out the application on merit.

PARENTING PLAN

Parenting Plan

The numbers of divorce cases are rising, more and more couples have been approaching family court for divorce, resulting in rise of bitter child custody and access matters.

A serious need is therefore felt for the introduction of a Parenting Plan which will help reduce the burden of courts and counselors to a great extent and will also help in speedy disposal of court cases. Parenting Plan shall also bring out an ease between the couples who are undergoing separation.

During the initial stage itself a copy of parenting plan can be provided to the couples by the court counselors making them aware and help the parents mutually draw a suitable parenting plan agreeable and acceptable to both the parents and which would cover aspects related to the child custody and access in the best interest and welfare of the child.

When children know that their parents have talked about what's best for them, and know that a plan is written down, they are likely to feel cared for and safer. Children can predict the shape of their lives and know that parents will keep the adult issues between adults (the allegations and arguments between the couple entering the parenting plan would be at minimum), Children will be able to manage the stresses and fears of the separation much better and they may not be required to visit court for access or for hearing that often.

The courts can direct the couple to draw a parenting plan (just like consent terns) within a period of sixty (60) days and also pass appropriate orders based on the parenting plan.

A **Parenting Plan** or **Custody Agreement** is required by the family court when parents divorce or separate. A Parenting Plan allows parents to avoid future conflicts in dealing with responsibilities relating to the children. Without specific agreements around these responsibilities disputes can arise and litigation may be needed to resolve these issues.

Divorce and separation are painful for everyone involved–particularly children. At this challenging time children need support, love and contact with both parents.

Some certainty about the future is also very important for everyone. A written parenting plan, worked out between parents, will help clarify the arrangements needed by the parents to put in place to care for the children. It will help everyone involved to know what is expected of them and it will be a valuable reference as time passes and circumstances change.

If the standard parenting plan by the court is agreed by parties before the court hearing, it is called "stipulated". Court can approve the stipulated parenting plan without court hearing.

A standard parenting plan by the Court puts the best interests of the child first. It is drawn up in good will with a shared commitment to the children and their future firmly in mind (just like consent terms).

In developed nations most of the states, there is a law required that court-ordered parenting plans must set forth the *minimum amount* of parenting time and access a noncustodial parent is entitled to have.

Aparenting plan is a written agreement between parents covering practical issues of parental responsibility approved by the Court.

Parenting Plan will detail practical decisions about children's care in such areas as:

- Parenting Time (physical custody)
- Major Decision Making (legal custody)
- Visitation / Access
- Transportation and Exchanges
- School Holidays, Vacations and Festivals
- Child Support / Maintenance
- A Dispute Resolution Process
- Schools Attended and Access to Records
- Physical and Mental Health Care
- Contact Information, Relocation Activities and School functions
- Overnights and Visitation
- Communications and Mutual Decision-Making
- Mediation
- Medical Insurance
- Contact with Relatives and Significant Others

Parents normally can make variations to the court standard parenting plan or develop a different custom plan if the judge approves the changes.

Parents later can modify the existing parenting plan by filing a new request with a court when circumstances have changed.

A parenting plan can take any form, however it must be made free from any threat, duress or coercion. It must be in writing and signed and dated by both parents.

If both parents agree on arrangements, Parents can submit parenting plan (just like consent terms) to the Family Court and Court can pass an appropriate order based on the parenting plan, giving it the same legal effect as an order made after a Court hearing. Parenting Plan approved by Court would be one form of consent order issued by the Court.

If parents cannot agree on arrangements for children they may need to have the Family Court decide and issue a Parenting Order.

In deciding parenting arrangements the Court must always consider:

- The best interests of the child
- The extent to which both parents have complied with their obligations in relation to the child, which may include those set out in a standard parenting plan (As follow).

Standard Parenting Plan

STATE	COURT	*Place*
		OTHER

PERMANENT PARENTING PLAN ORDER	PETITION No:
☐ PROPOSED ☐ AGREED ☐ ORDERED BY THE COURT	
DATE :	DIVISION

PETITIONER *(Name: First, Middle, Last)*	RESPONDENT *(Name: First, Middle, Last)*
ADDRESS :	ADDRESS :
☐ Mother ☐ Father	☐ Mother ☐ Father

The mother and father will behave with each other and each child so as to provide a loving, stable, consistent and nurturing relationship with the child even though they are separated / divorced. They will not speak badly of each other or the members of the family of the other parent. They will encourage each child to continue to love the other parent and be comfortable in both families.

This plan ☐ is a new plan.
☐ modifies an existing Parenting Plan dated_____
☐ modifies an existing Order dated_____of Family / High Court

Child's Name	Date of Birth

Parenting Plan Note:

☒ Tick that is applicable / Strike out -----what may not be applicable.

I. RESIDENTIAL PARENTING SCHEDULE

A. RESIDENTIAL TIME WITH EACH PARENT

The Primary Residential Parent (Custodial parent) is

_____

Under the above schedule each parent will spend the following number of days with the children:

Mother_____days Father_____days

B. DAY-TO-DAY SCHEDULE

The mother / father shall have responsibility for the care and access of the child or children except at the following times when the other parent shall have responsibility and access :

From _____ to _____
Dayand Time *Dayand Time*

☐ every week ☐ every other week ☐ other: _____

(Advisable two days weekday access 2 hours each during the week at locals of the child)

The other parent shall also have responsibility for the care and access of the child or children at the additional parenting times specified below:

From _____ to _____
Dayand Time *Dayand Time*

☐ every week ☐ every other week ☐ other: _____

This parenting schedule begins ☐ _____ **or** ☐ date of the Court's Order.
Day and Time

(Overnight weekend access Advisable every week Friday 6pm to Saturday 6pm Or Saturday 6pm to Sunday 6pm)

Or (every other weekend Friday 6pm to Sunday 6pm)

C. HOLIDAY SCHEDULE AND OTHER SCHOOL FREE DAYS

Indicate if child or children will be with parent During FESTVALS EVERY year:

	MOTHER *(tick)*	**Timings**	**FATHER** *(tick)*
Parsi New Year			
Dussera			
Diwali			
26th Jan Republic Day			
Holi			
Mahashivratri			
Janmasthami			
Rakshabandhan Day			
Mother's Day			
Father's Day			
15thAugust Independence Day			
Bhaubeej			
Ganpati			
Navratri			
Eid			
Mother's Birthday			
Father's Birthday			
Child's Birthday			

(Advisable to Choose any 9 days during the year)

Other School-Free Days_____

Other Significant Family_____

Occasions: _____

(Choose any 3 days during the year)

A weekend access / holiday shall begin at 6:00 p.m. on the night preceding the holiday and end at 6:00 p.m. the night of the holiday, unless otherwise noted above.

D. Long Festival Weekend Holidays

(*If applicable* ☐Ganpati / ☐Navratri / ☐Ramzan / ☐ Diwali / ☐ Christmas)

The day to day schedule shall apply except as follows**:**_____

_____ beginning_____

E. Other agreement of the pa rents:_____

F. CHRISTMAS VACATION

The day-to-day schedule shall apply except as follows: _____

_____beginning_____

G. SUMMER VACATION

The day-to-day schedule shall apply except as follows: _____

_____ beginning_____

Is written notice required? ☐ Yes ☐ No. If so,_____number of days.

Note: The access denied / deprived by the custodial parent shall be compensated within_____days of receiving the notice / request from the non custodial parent.

H. TRANSPORTATION ARRANGEMENTS

The place of meeting for the exchange of the child or children shall be:_____

Payment of long distance transportation costs *(if applicable):*

☐ mother ☐ father ☐ both equally.

Other arrangements: _____

A parent he or she must make reasonable transportation arrangements to protect the child or children while in the care of that parent.

I. **SUPERVISION OF PARENTING TIME** *(If applicable)*

☐ **Check if applicable**

Supervised parenting time shall apply during the day-to-day schedule as follows:

☐ Place:_____

☐ Person or organization supervising: _____

☐ Responsibility for cost, if any: ☐ mother ☐ father ☐ both equally.

J. OTHER

The following special provisions apply :

_____

_____

_____

II. DECISION-MAKING

A. DAY-TO-DAY DECISIONS

Each parent shall make decisions regarding the day-to-day care of a child while the child is residing with that parent, including any emergency decisions affecting the health or safety of a child.

B. MAJOR DECISIONS

Major decisions regarding each child shall be made as follows:

Educational decisions	☐ mother	☐ father	☐ joint
Non-emergency health care	☐ mother	☐ father	☐ joint
Religious upbringing	☐ mother	☐ father	☐ joint
Ext racurricular activities	☐ mother	☐ father	☐ joint
_____	☐ mother	☐ father	☐ joint

NAME OF THE CHILD & SURNAME: The custodial parent shall not be entitled to change the name or the surname of the child which has been given to the child as per either a ceremony performed for the same or the name along with the father's surname as it appears in the birth certificate without the court order or written consent of the non-custodial parent.

REMOVAL OF CHILD FROM DAYCARE OR SCHOOL: The non-custodial parent will be informed 60 days in advance incase if the child is being removed from the day care or school.

MEDICATION, ILLNESS OR ACCIDENT: If the child becomes ill or is involved in an accident, and treatment by a medical professional is obtained, the parent who has the child at the time of the illness or accident shall notify the other parent as soon as practicable but no later than three (3) hours after the incident or diagnosis. ILLNESS OF THE CHILD SHALL NOT PREVENT VISITATION WITH THE CHILD, UNLESS THE CHILD IS HOSPITALIZED. NONCUSTODIAL PARENT CAN VISIT THE CHILD IN HOSPITAL.

NOT stop during visitation periods, unless provided by court order.

B.HEALTH AND INSURANCE

Reasonable health insurance on the child or children will be:

- ☐ maintained by the mother
- ☐ maintained by the father
- ☐ maintained by the both

III. FINANCIAL SUPPORT / MAINTENANCE

A. CHILD SUPPORT

Father's gross monthly income is Rs. _____

Mother's gross monthly income is Rs. _____

1. The final child support order is as follows:

a. The ☐ mother ☐ father shall pay to the other parent as regular child support the sum of Rs._____monthly.

The Child Support / Maintenance / Worksheet / Order shall be attached to this Order as an Exhibit.

2. Payments shall begin on the_____day of_____, 20__.

This support / maintenance shall be paid:

☐ directly to the other parent.

☐ to the Family Court

☐ by direct deposit to the other parent at _____

Bank for deposit in account no. _____

other: _____

The parents acknowledge that court approval must be obtained before child support can be reduced or modified.

CHILD SUPPORT / MAINTENANCE: Non-payment or late payment of child support is NOT an acceptable reason to deny or interfere with visitation. Conversely, denial of visitation is NOT justification for non-payment or late payment of child support. Both parents agree that the Child support and child visitation are separate and independent issues and are not to be manipulated by either parent to gain leverage over the other parent with regard to visitation or child support. Child support shall

IV. PRIMARY RESIDENTIAL PARENT (CUSTODIAN) FOR OTHER LEGAL PURPOSES

The child or children are scheduled to reside the majority of the time with the □ mother □ father. This parent is designated as the primary residential parent also known as the custodian, **SOLELY** for purposes of any other applicable state laws. If the parents are listed in Section II as joint decision-makers, then, for purposes of obtaining health or other insurance, they shall be considered to be joint custodians.

THIS DESIGNATION DOES NOT AFFECT EITHER PARENT'S RIGHTS OR RESPONSIBILITIES UNDER THIS PARENTING PLAN.

V. DISAGREEMENTS OR MODIFICATION OF PLAN OR NON COMPLIANCE

Should the parents disagree about this Parenting Plan or wish to modify it, or incase of the non-compliance they must make a good faith effort to resolve the issue by the process selected below before returning to Court.

☐ Mediation by a neutral party chosen by the parents or the Court.

☐ The Court DUE TO ORDER OF PROTECTION OR RESTRICTIONS.

It must be commenced by notifying the other parent and the Court by

☐ written request ☐ registered mail.

☐ other:_____.

In the dispute resolution process:

A. Preference shall be given to carrying out this Parenting Plan.

B. The parents shall use the process to resolve disputes relating to implementation of the Plan.

C. A written record shall be prepared of any agreement reached, and it shall be provided to each parent.

D. If the Court finds that a parent willfully failed to appear without good reason, the Court, upon motion, may pass appropriate order.

Non-Compliance of the parenting plan may amount to breach of trust and parents are required to approach court for appropriate action.

VI. RIGHTS

RIGHTS OF CHILD

Both Parents recognize child's / children's right to:

- Emotional and physical safety, stability and security
- Feel loved by both of us and significant family members
- Know and be cared for by both parents and significant family members
- Develop independent and meaningful relationships with each parent.

RIGHTS OF PARENTS

Both parents are entitled to the following rights:

(1) The right to unimpeded telephone and web cam conversations with the child at least twice a week at reasonable times and for reasonable durations;

(2) The right to send mail / gifts to the child which the other parent shall not open or censor;

(3) The right to receive notice and relevant information as soon as practicable but within three (3) hours of any event of hospitalization, major illness or death of the child;

(4) The right to receive directly from the child's school any school records customarily made available to parents. (The school may require a written request which includes a current mailing address and upon payment of reasonable costs of duplicating.) These include copies of the child's report cards, attendance records, names of teachers, class schedules, and standardized test scores;

(5) The right to receive copies of the child's medical health or other treatment records directly from the physician or health care provider who provided treatment or health care. (The keeper of the records may require a written request which contains a current mailing address and the payment of reasonable costs of duplication.) No person who receives the mailing address of a parent as a result of this requirement shall provide such address to the other parent or a third person;

(6) The right to be free of unwarranted derogatory remarks made about the parent or his or her family by the other parent to the child or in the presence of the child;

(7) The right to be given at least forty-eight (48) hours notice, whenever possible, of all extra-curricular activities, and the opportunity to participate or observe them. These include the following: school activities, athletic activities, and other activities where parental participation or observation would be appropriate;

(8) The right to receive from the other parent, in the event the other parent leaves the state with the minor child or children for more than two (2) days, an itinerary including telephone numbers for use in the event of an emergency;

(9) The right to access and participation in education on the same basis that is provided to all parents. This includes the right of access to the child for lunch and other activities. However participation or access must be reasonable and not interfere with day-to-day operations or with the child's educational performance.

(10) Right to share the names and contact details of the friends of the child.

VII. NOTICE REGARDING PARENTAL RELOCATION

If a parent who is spending intervals of time with a child desires to relocate outside the state or local jurisdiction from the other parent within the state, the relocating parent shall send a notice to the other parent at the other parent's last known address by registered or certified mail. the notice shall be mailed not later than sixty (60) days prior to the move. The notice shall contain the following:

(1) Statement of intent to move;
(2) Location of proposed new residence;
(3) Reasons for proposed relocation; and
(4) Statement that the other parent may file a petition in opposition to the move within sixty (60) days on receipt of the notice.

Sharing Emergency numbers

Compiled a list of emergency numbers for children.

Father	**Mother**
Home: Cell : Email:	Home: Cell : Email:
Relatives	**Relatives**
Name 1: Relation: Home: Cell:	Name 1: Relation: Home: Cell:

Relatives	**Relatives**
Name 2: Relation: Home: Cell:	Name 2: Relation: Home: Cell:
School Contact No. :	School Contact No. :
Doctor's Name & No. :	Doctor's Name & No. :

The Parents hereto have executed this Parenting Plan the day and year first herein above written.

_____	_____
Sign Mother	*Sign Father*
_____	_____
lawyer for Mother	*lawyer for Father*
_____	_____
Address of Mother	*Address of Father*
_____	_____
_____	_____
_____	_____
Phone	*Phone*

APPROVED By Counselor : Name:_____Sign: _____

Note: The judge may sign below or, instead, sign a Final Decree or a separate Order incorporating this plan as Exhibit_____.

COURT COSTS (If applicable)

Court costs, if any, as follows:_____

It is so ORDERED this the_____day of_____,

_____
Judge

CHILD CUSTODY AFFIDAVIT

I _____d/o or s/o or w/o _____aged about _____ years resident of _____, do hereby solemnly affirm and declare as under:

PART I: DETAILS OF DEPONENT

A. Personal Information of Deponent

1. Name:
2. Age:
3. Sex:
4. Relationship to the child:
5. Date of marriage:
6. Date of separation:
7. Name, age and custodial guardian of any other children of Deponent (from this or other marriages/relationships):
8. Address of Permanent Residence
9. Address of Current Residence:
10. Date since residing at current residence
11. Whether Current Residence is matrimonial house/ parental home/ separate residence:
12. Ownership details of Current Residence:
13. Details of other persons staying at the Current Residence (name, age, relationship with Deponent):
14. Details of dependants, if any, of Deponent:
15. Qualifications (Education and Professional):
16. Occupation:
17. Work timings (including travel time):
18. Whether frequent work travel is required:

B. Details of Income of Deponent

1. Name of employer:
2. Designation:
3. Monthly income after TDS:
4. If self-employed professional or entrepreneur, provide a brief description of nature of business/ profession/ vocation/ self-employed work activity and whether the business/profession/self-employment is carried on as an individual, sole proprietorship concern, partnership

   concern, LLP, company or association of persons, HUF, joint family business.

5. If engaged in government service, furnish latest salary certificates or current pay slips or proof of deposit in bank account, if being remitted directly by employer.
6. If engaged in the private sector, furnish a certificate provided by the employer stating the designation and gross monthly income of such person, and Form 16 for the relevant period of current employment.
7. If any perquisites, benefits, house rent allowance, travel allowance, dearness allowance or any other service benefit is being provided by the employer during the course of current employment.
8. Whether assessed to income tax?
9. If yes, submit copies of the Income Tax Returns for the periods given below:
    a. One year prior to marriage
    b. One year prior to separation
    c. At the time when the application for custody is filed
10. Income from other sources, such as rent, interest, shares, dividends, capital gains, FDRs, Post office deposits, mutual funds, stocks, debentures, agriculture, or business, if any, along with TDS in respect of any such income.
11. Furnish copies of bank statement of all accounts for the last 3 years.

C. Assets of the Deponent

1. Self-acquired property, if any:
2. Properties jointly owned by the parties after marriage:
3. Share in any ancestral property:
4. Other self and joint properties of the parties (accounts/ investments/ FDR/ mutual funds, stocks, debentures, etc.), their value and status of possession:
5. Status of possession of immovable property and details of rent, if leased:
6. Details of loans taken or given by the Deponent

D. Liabilities of the Deponent

1. Loans, liabilities, mortgage, or charge outstanding against the Deponent, if any:
2. Details of any EMIs being paid:
3. Date and purpose of taking loan or incurring any such liability:

4. Actual amount borrowed, if any, and the amount paid up to date of filing the Affidavit:
5. Any other information which would be relevant to describe current liabilities of the Deponent:

E. Deponent or other party being Non-Resident Indians, Overseas Citizens of India, Foreign Nationals or Persons living abroad outside India

1. Details of Citizenship, Nationality and current place of residence of both parties:
2. If Indian citizenship is acquired by naturalization, descent, registration, or any other method except by birth, provide details:
3. Details of current employment and latest income in foreign currency of both parties, duly supported by relevant documentation of employment and income from such foreign employer or overseas institution by way of employment letter or testimonial from foreign employer or overseas institution or latest relevant bank statement:
4. Details of household and other expenditure of both parties in foreign jurisdiction:
5. Details of tax liability of both parties in foreign jurisdiction:
6. Details of income of both parties from other sources in India/foreign jurisdiction:
7. Details of expenses incurred or contribution made on account of spousal maintenance, child support or any other educational expenses, medical treatment of spouse or children:
8. Any other relevant detail of expenses or liabilities, not covered under any of the above headings and any other liabilities to any other dependent family members in India or abroad:
9. Furnish copies of bank statement of all accounts for the last 3 years.

F. Details of Legal Proceedings

1. Particulars of any ongoing or past civil and criminal and other legal proceedings with respect to Deponent before any fora in any jurisdiction including arbitration?
2. If so, provide particulars thereof, along with a copy of the order(s) passed.
3. If proceedings for divorce / maintenance / other litigations filed by opposite party are pending, please attach the pleadings of both parties in such proceedings.

G. Medical Details of the Deponent

1. Whether Deponent is suffering from any physical disability or any other ailment. If yes, produce medical records.
2. Whether the physical disability or ailment prevents or otherwise inhibits the Deponent from performing tasks or earning a livelihood?

H. Mental Health Details of the Deponent

1. Whether Deponent has been diagnosed with any mental health issues?
2. Whether Deponent was ever advised to be diagnosed for mental health issues but has not been examined?
3. Name of the Psychiatrist:
4. Name of the Institution associated with the Psychiatrist:
5. Name of the Psychologist:
6. Name of the Institution associated with the Psychologist:
7. Whether the diagnosis prevents or otherwise inhibits the Deponent from performing tasks or earning a livelihood?

PART II: DETAILS OF CHILD / CHILDREN (TO BE FILLED IN SEPARATELY FOR EACH CHILD)

I. Basic Information pertaining to Child

1. Name:
2. Age:
3. Sex:
4. Natural/Ordinary Residence:
5. Permanent Resience :
6. Current Residence:

7. If relocated, reason for relocation of Child:
8. For how long has Child been residing at current residence?
9. Whether current residence is an independent house or flat?
10. Name of School:
11. Year of Enrolment into School:
12. Current Class of Child:
13. Distance from Current Residence to School:
14. Distance from Previous Residence to School:
15. Whether Child attends any day care centre?
16. Details of Day Care including distance from current and previous residence?
17. Annual vacation of Child as per School notified calendar:
18. Whether transport arrangements can be changed based on visitation?
19. In whose custody are the documents related to Child such as passport, birth certificate etc.
20. Who has been named as the first point of contact in the School?
21. Whether name and details of other parent has been included as alternate contact in school?
22. Who receives all information from the School regarding Child?

J. Assets of the Child

1. Whether Child has an insurance policy on his/her name or is covered under a family insurance policy? If any, who has undertaken to make payments towards thec insurance policy or under whose name has the insurance policy been taken under? Who is covered under the policy? (Mention the type of insurance policy).
2. Whether Child has any other accounts/investments/FDR/ mutual funds, stocks, debentures, etc., their value and status of possession: under his/her name? (Mention the Number, Principal Amount, Interest, Lock in period, Name of the Bank)
3. Brief description of jewellery and ornaments of Child.
4. Immovable Property in the name of Child, if any:
5. Status of possession of immovable property and details of rent, if leased
6. Properties of Child that have been sold/alienated etc

K. Medical Details of the Child

1. Whether Child is suffering from any physical disability or any other ailment. If yes, produce medical records.
2. Whether the physical disability or ailment prevents or otherwise inhibits Child from performing tasks or attending school?
3. Whether assistance of any Third-Party is provided to aid the Child in performing tasks? If so, who is providing for the Third-Party assistance to enable the Child. Please provide details regarding the nature of services of each Third-Party assistance.

L. Mental Health Details of Child

1. Whether Child is diagnosed with any mental health issues. If yes, produce medical records.
2. Name of the Psychiatrist:
3. Name of the Institution associated with the Psychiatrist:
4. Name of the Psychologist:
5. Name of the Institution associated with the Psychologist:
6. Whether the diagnosis prevents or otherwise inhibits Child from performing tasks or attending school?
7. Whether assistance of any Third-Party is provided to aid the Child in performing tasks? If so, who is providing for the Third-Party assistance to enable the Child. Please provide details regarding the nature of services of each Third-Party assistance.

M. Day to Day Activities of Child

1. Details of tutorials/ remedial classes taken by Child including location and timings
2. Details of co-curricular activities taken by Child including location and timings
3. Details of extra-curricular activities taken by Child including location and timings
4. Whether any third-party is looking after Child such as grandparents, nanny etc.,

N. Expenses Incurred for Child

1. School Fee per Year:
2. Transport Fee:
3. Estimate of Expenses towards books, stationery etc:
4. Expenses towards Tuitions:
5. Fee towards Extra-Curriculars:
6. Any other recurring expenses or fees:
7. Medical expenses:
8. Estimated expenses for Child towards clothes, food, leisure etc:
9. Estimated financial contribution of Deponent to the expenses of Child:
10. Contributions made by the parents in the name of Child towards investments for the benefit of Child:

O. Any other details pertaining to Deponent, Child or other party relevant for determining custody and visitation? Serious concerns such as domestic violence, substance abuse, verbal and sexual abuse, serious mental health issues against the other party may be detailed here.

Declaration

1. I declare that I have made a full and accurate disclosure of all the information recorded in this Affidavit. I further declare that I have not suppressed any information in this affidavit.

2. I undertake to inform this Court immediately with respect to any material change in the information included in this affidavit.

3. I understand that any false or misleading information may be viewed seriously and I may be met with penal consequences for such false or misleading information including that the same may become material in determining custody or visitation rights with respect to the child.

DEPONENT

Verification

Verified at _____ on this the _____ day of _____ that the contents of the above Affidavit are true to my personal knowledge, no part of it is false and nothing material has been concealed therefrom, whereas the contents of the above Affidavit are based on information believed to be true on the basis of record. I further verify that the copies of the documents filed along with the affidavit are the copies of the originals.

DEPONENT