2020 INSC 687

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NO. 2140 OF 2020

IN

CIVIL APPEAL NO. 3559 OF 2020

SMRITI MADAN KANSAGRA …Appellant

VERSUS

PERRY KANSAGRA …Respondent

WITH

MISCELLANEOUS APPLICATION NO. 2170 OF 2020
IN
CIVIL APPEAL NO. 3559 OF 2020

O R D E R

1. By majority judgment dated 28.10.2020, (hereinafter referred to as the Judgment) Civil Appeal No.3559 of 2020 was dismissed with certain directions. Paragraphs 20 to 22 of the Judgment, for facility, are quoted hereunder:-

> "20. In view of the aforesaid discussion, we consider it just and appropriate that the custody of Aditya Vikram Kansagra is handed over by his mother Smriti Madan

Kansagra, to the father Perry Kansagra, subject to the following directions, which will take effect in supersession of the Orders passed by the Courts below:

(a) We direct Perry Kansagra to obtain a mirror order from the concerned court in Nairobi to reflect the directions contained in this judgment, within a period of 2 weeks from the date of this judgment. A copy of the Order passed by the court in Nairobi must be filed before this Court;

(b) After the mirror order is filed before this Court, Perry shall deposit a sum of INR 1 Crore in the Registry of this Court, which shall be kept in an interest bearing fixed deposit account (on auto-renewal basis), for a period of two years to ensure compliance with the directions contained in this judgment.

If this Court is satisfied that Perry has discharged all his obligations in terms of the aforesaid directions of this Court, the aforesaid amount shall be returned with interest accrued, thereon to the Respondent;

(c) Perry will apply and obtain a fresh Kenyan passport for Aditya, Smriti will provide full co-operation, and not cause any obstruction in this behalf;

(d) Within a week of the mirror order being filed before this Court, Smriti shall provide the Birth Certificate and the Transfer Certificate from Delhi Public School, to enable Perry to secure admission of Aditya to a School in Kenya;

(e) Smriti will be at liberty to engage with Aditya on a suitable video-conferencing platform for one hour over the weekends; further, Aditya is at liberty to speak to his mother as and when he desires to do so;

(f) Smriti would be provided with access and visitation rights for 50% once in a year during the annual vacations of Aditya, either in New Delhi or Kenya, wherever she likes, after due intimation to Perry;

> (g) Perry will bear the cost of one trip in a year for a period of one week to Smriti and her mother to visit Aditya in Kenya during his vacations. The costs will cover the air fare and expenses for stay in Kenya;
>
> (h) Smriti will not be entitled to take Aditya out of Nairobi, Kenya without the consent of Perry;
>
> (i) We direct Perry and Smriti to file Undertakings before this Court, stating that they would abide and comply with the directions passed by this Court without demur, within a period of one week from the date of this judgment.
>
> 21. As an interim measure, we direct that till such time that Perry is granted full custody of the child, he will be entitled to unsupervised visitation with overnight access during weekends when he visits India, so that the studies of Aditya are not disturbed. Perry and his parents would be required to deposit their passports before the Registrar of this Court during such period of visitation. After the visitation is over, the passports shall be returned to them forthwith.
>
> 22. This appeal shall be listed before the Court after a period of four weeks to ensure compliance with the aforesaid directions, and on being satisfied that all the afore-stated directions are duly complied with, the custody of Aditya Vikram Kansagra shall be handed over by his mother Smriti Kansagra to the father Perry Kansagra."

2. Direction (C) issued in paragraph 20 as stated above, was modified by a subsequent Order dated 03.11.2020 passed in M.A. No.2066 of 2020 moved by the respondent, who was permitted to take Aditya to Kenya on the strength of a one time travel document issued by the High Commission of Kenya in New Delhi, and to apply for and obtain a Kenyan Passport for Aditya after his arrival in Kenya.

3. On 30.10.2020, the respondent filed an undertaking in this Court stating that he would abide by and comply with all the directions contained in the Judgement, without demur, and in letter and spirit. Similarly, the appellant has filed an undertaking dated 05.11.2020 to abide by and comply with the directions passed by this Court without demur.

4. On 30.10.2020, the respondent moved an application in the High Court of Kenya at Nairobi seeking registration of the Judgment and for obtaining 'Mirror Order'. The title of the application and the opening recitals were: -

"REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
FAMILY DIVISION
MISCELLANEOUS APPLICATION NO. OF 2020
IN THE MATTER OF FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT, CAP 43 OF THE LAWS OF KENYA
IN THE MATTER OF AN ORDER OF THE SUPREME COURT OF INDIA
ISSUED ON 28th OCTOBER 2020
AN
IN THE MATTER OF AVK (A CHILD)
AND IN THE MATTER OF SECTION4, 22, 113 OF THE CHILDREN ACT AND ARTICLE 53 OF THE CONSTITUTION OF KENYA 2010
FOR AN APPLICATION FOR MIRROR ORDERS
BY
PERRY KANSAGRA----------EX PARTE APPLICANT

Originating Summons

[Under Sections 3, 4, 5 & 6 of the Foreign Judgments (Reciprocal Enforcement) Sections 4, 22, 113 of the Children Act and Articles 53 of The Constitution of Kenya 2010, the Inherent Powers of the Court and all Enabling Provisions of the Law].

LET ALL PARTIES CONCERNED attend the Honourable Judge in Chambers for the hearing of this application which is issued on the application of **PERRY KANSAGRA** of Post Office Box Number 76817 – 00620, Nairobi for orders:

1. THAT this application be certified as urgent, deserving priority hearing and directions *ex parte* in the first instance.

2. THAT the judgment delivered by the **Supreme Court of India in Supreme Court Civil Appeal No.3559 of 2020 – Smriti Madan Kangagra V. Perry Kansagra be registered.**
3. THAT further, or other orders, be granted so as to give effect to the orders of and in compliance with judgment of the Supreme Court of India made on 28th October 2020."

After referring to the directions issued by this Court, the application stated

"7. That the application is brought in the best interest of the child and to facilitate his return to Kenya to be reunited with his father and family.

8. That the orders sought are necessary to facilitate the taking of such other steps and proceedings as ordered by the Supreme Court in India…."

5. The Order dated 09.11.2020 passed by the High Court of Kenya at Nairobi on the aforestated application was:-

"REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
FAMILY DIVISION
HCFOS/EO31 OF 2020

IN THE MATTER OF FOREIGN JUDGMENTS
(RECIPROCAL ENFORCEMENT) ACT, CAP, 43
OF THE LAWS OF KENYA
IN THE MATTER OF AN ORDER OF THE SUPREME COURT OF INDIA
ISSUED ON 28th OCTOBER 2020
AND
IN THE MATTER OF ADITYA VIKRAM KANSAGRA (A CHILD)
AND IN THE MATTER OF SECTION 4, 22, 113,
OF THE CHILDREN ACT, AND
ARTICLE 53 OF THE CONSTITUTION OF KENYA, 2010
FOR AN APPLICATION FOR MIRROR ORDERS
BY

PERRY KANSAGRA ---------- *Exparte* APPLICANT

IN COURT ON 9th DAY OF NOVEMBER 2020
BEFORE HON. MR. JUSTICE A.O. MUCHELULE

O R D E R

THIS MATTER coming up for hearing **UNDER CERTIFICATE OF URGENCY** before Hon. Justice A.O. Muchelule; **AND UPON READING** the application;

IT IS HEREBY ORDERED;

1. **THAT** application certified urgent.
2. **THAT** the order of the Supreme Court of India issued on 28.10.2020 is hereby registered as prayed.

GIVEN under my hand and the seal of this Court this 9th day of November, 2020.

ISSUED at Nairobi this 11th day of November 2020

I CERTIFY THIS IS TRUE COPY OF THE ORIGINAL

DEPUTY REGISTRAR DATED 11/11/2020
HIGH COURT OF KENYA, NAIROBI ____"

6. The appellant has now filed Miscellaneous Application No.2140 of 2020 seeking modification of the directions issued by this Court in para 20 of the Judgment. In Paragraph 19 of this Application, the appellant has sought various modifications which are encapsulated in a Note circulated on 30.11.2020, and confined and crystalised her case under following five segments:-

"**I. Protections and directions by the High Court and Family Court which were not appealed:**

a. Smriti be granted temporary custody/visitation of Aditya during summer and winter vacation.

b. Smriti be permitted to freely exchange e-mails, letters, and other correspondence with Aditya without any hindrance by Respondent or his family.

c. Smriti shall be entitled to talk to Aditya over video call/audio calls for at least 10 minutes everyday at mutually agreed time.

d. Perry's undertaking dated 02.03.2020 [pg. 30 of Application] that he shall continue to submit to the jurisdiction of the Indian Courts, duly filed by Perry in the High Court and relied upon by him in Supreme Court, kindly be accepted.

e. Perry's mother's undertaking dated 27.02.2020 [pg. 33 of Application] given before the High Court and duly relied upon in Supreme Court, may kindly be accepted.

II. Directions in the best interest of Aditya Re: schooling and education

a. Perry be directed to furnish Aditya's school reports and activity reports to Smriti.

b. Perry to inform Smriti about the Parent Teacher Meetings and other functions and activities in school and Smriti to have liberty to visit Aditya's school, attend school events and interact with the school teachers. Smriti's contact details to be furnished to Aditya's school.

c. Smriti be consulted /informed if Aditya's school is changed.

III. Directions in the best interest of Aditya Re: Continuance of emotional connection with Mother

a. Smriti be permitted to have the temporary custody/visitation of Aditya during easter vacation in addition to the summer and winter vacation and Smriti be permitted to take Aditya abroad for holidays. Perry or grandparents to drop Aditya to India and pick him up.

b. Smriti be allowed to visit Kenya every two months and stay with Aditya for a week. Cost of Smriti's stay and travel be taken care of by Perry.

c. Smriti to have liberty to meet Aditya on his birthday.

d. Aditya to have a video call with extended family members on the maternal side, cousins and friends twice a month.

IV. Directions in best interest of Aditya Re: Welfare and Health

a. Perry to keep Smriti informed about Aditya's health and medical issues and share medical reports with Smriti. In case of medical emergency, Perry to immediately inform Smriti. All medical decisions regarding Aditya be taken in consultation with Smriti.

b. This Hon'ble Court may keep the matter pending and Aditya be produced before the Hon'ble Court for an evaluation every six months for the next 4 years [Vivek Singh vs. Romani Singh[1]]

V. Miscellaneous Directions

a. Perry to get the OCI renewed and keep the same valid till Aditya turns 18.

b. Both parties to file undertakings incorporating the directions of the Court and an appropriate mirror order may be filed. Smriti be provided with the advance copy of the paper work being filed in Kenya for obtaining mirror order in Kenya."

7. We will deal with the matter mentioned at placitum '*a*' under the first segment after having dealt with other aspects under said segment.

(i) With regard to the matter at placitum '*b*', the learned counsel for the respondent has fairly accepted the suggestion.

(ii) With regard to the matter at placitum '*c*', as against 10 minutes a day, what has been granted is one hour over the week end. Thus, as against 70 minutes in a week, what has been granted is 60 minutes over the weekends which will be sufficiently long and a comprehensive interaction. It has also been directed that the child will be at liberty to speak to

1 (2017) 3 SCC 231, Page 57/See Page 72

his mother, as and when he desires to do so. Therefore, in our view, the directions issued by this Court with regard to this issue do not call for any modification.

(iii) With regard to the issue at placitum *'d'*, the learned counsel for the respondent has accepted that having given an undertaking to this Court, the respondent has subjected himself to the jurisdiction of this Court. Mr. Shyam Divan, learned Senior Advocate for the appellant however relied upon paragraph 3 of the undertaking dated 02.03.2020 given to the High Court to emphasize the absence of such clear stipulation in the present undertaking regarding submission to the jurisdiction of the Indian Courts. Though, we accept the submission made by the learned counsel for the respondent, it is hereby clarified that paragraph 3 of the undertaking given by respondent dated 02.03.2020 to the High Court shall continue to be operative, in addition to the undertaking given to this Court.

(iv) In the context of the matter mentioned against placitum *'e'*, it must be stated that this Court did not deem it appropriate to bind the paternal grandmother of Aditya, because of the various other directions issued in the Judgment, including the one requiring the respondent to obtain a Mirror Order.

The High Court had not insisted upon furnishing of any Mirror Order and, therefore, the direction to have the affidavit of the grandmother who is an Indian citizen, was issued. However, the direction to obtain a Mirror Order was taken to be sufficient security by this Court, to take care of any apprehension that the respondent may not fulfil the obligations cast upon him by the Judgment.

8. We now turn to the issue regarding Mirror Order. It is submitted by Mr. Divan, learned Senior Advocate for the appellant that what is contemplated by the directions issued in the Judgment is a binding and valid Mirror Order. In his submission, the Mirror Order must, in all respects, be one which is fully enforceable, and on which complete reliance can be placed by this Court. He has invited our attention to the Foreign Judgments (Reciprocal Enforcement) Act, CAP, 43 enacted by the Parliament of Kenya ("the Act", for short) to make provisions for the enforcement of judgments given in countries outside Kenya which accord reciprocal treatment to judgments given in Kenya and for other purposes in connection therewith.

The submissions of Mr. Divan on this issue are:-

A) India and Kenya are not reciprocating countries and, as such, the provisions of the Act will not be applicable.

B) In any case, by virtue of Section 3(3) of the Act, nothing in the Act will apply to proceedings in connection with *"the custody or guardianship of children"*.

C) In terms of Section 6(1) of the Act, the registration of a judgment rendered by a foreign court can be granted, if *"the High Court is satisfied as to the proof of matters required by this Act and any rules of court"*.

D) Since the Act itself will not apply to proceedings in connection with the custody or guardianship of children, the registration of the Judgment under the Act will be without any consequence in law.

E) Any submission about validity of registration can be taken by a judgment debtor in terms of Section 10 of the Act and have the registration set aside.

It is thus submitted that mere registration of the Judgment will not make it enforceable. Reliance is placed on a legal opinion given by Ms. Rubeena Dar a practising lawyer in Kenya. A copy of Mirror Order dated 14.05.2018 issued by Superior Court, J.D. of Stamford, Norwalk pursuant

to the directions of the High Court of Delhi in ***Dr. Navtej Singh vs. State of NCT and another***[2] is also relied upon to submit what a Mirror Order must normally contemplate and provide. The relevant portion of said Order dated 14.05.2018 reads:-

> "1. Plaintiff's Motion for Order is granted on the application to Show Cause, docketed at #114.00.
>
> 2. The prior orders for sole physical and legal custody in favour of the Plaintiff shall be recalled.
>
> 3. The prior orders remain in place that Jasmeet Kaur is to return immediately to Connecticut with the minor children.
>
> 4. The minor children shall remain in the custody of Jasmeet Kaur, and the Plaintiff shall have reasonable interim visitation with the minor children as agreed or Court ordered upon the minor children's return with Jasmeet Kaur to Connecticut, until further custody orders are determined by the Connecticut Superior Court after granting adequate opportunity of hearing to both the parties.
>
> 5. That the Affidavit of Undertaking of the Plaintiff, confirming how he has conformed his conduct to the Order of the High Court of Delhi at New Delhi on March 6, 2018, submitted as Exhibit B to the Motion for Order (Tab 2 of Exhibit 2) is hereby approved and so ordered.
>
> 6. That Attorney William Taylor is hereby appointed as escrow agent pursuant to Exhibit C to the Motion for Order (Tab 3 of Exhibit 2)."

9. On the other hand, Mr. Anunaya Mehta, learned Advocate for the respondent has relied upon the provisions of the Judicature Act of Kenya which empower the High Court of Kenya to exercise jurisdiction in

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2 (2018) SCC OnLine Del 7511 – which was affirmed by this Court in (2019) 17 SCALE 672

accordance with common law principles and doctrine of equity and upon Article 2(5) of the Constitution of Kenya, 2010, which recognises the general rules of international law as forming part of laws of Kenya. The opinion given by M/s. GMC Advocates is also relied upon, the relevant portion of which reads as under:-

> "Reference may additionally be had to the provisions of Sections 4, 22 and 113 of the **Children's Act 2010** and Article 53 of the **Constitution of Kenya 2010** which provide that the best interest and welfare of the child is paramount which would justify grant of orders in the nature of mirror orders.
>
> A Mirror Order is issued by another Court which contains the same terms as those that are contained in the Order being mirrored. It is the practice in Courts in Kenya that a Mirror Order is granted by registration of entire Judgment of the Foreign Court by the Court in Kenya. This is done so as to avoid any variation in context, form or substance. The registration of the Foreign Judgment by the Court of Kenya is itself the Mirror Order. Nothing further is required.
>
> Reference may be had to Judgment **In Re Matter of I W P (Infant) [2013] 3KLR)** where in a matter concerning a judgment passed by foreign court in relation to custody and guardianship of a minor, the High Court of Kenya at Nairobi had granted a mirror order.
>
> Having regard to the law applicable in Kenya, the application for grant of a mirror order in accordance with the directions contained in the judgment dated 28-10-2020 passed by supreme Court of India in case titled as "*Smriti Madan Kansagra vs. Perry Kansagra"* [CA No. 3559/2020] was made on 09-11-2020 before the High Court of Kenya at Nairobi. The application was an Ex-Parte application, as the orders sought were non-contentious in nature, given the fact that the matter was extensively and conclusively dealt with by the Supreme Court of India and only Mirror Order was sought from High Court of Kenya at Nairobi.
>
> The application for grant of a mirror order was allowed by the High Court and the judgment dated 28-10-2020 passed

> by Supreme Court of India in case titled as *"Smriti Madan Kansagra vs. Perry Kansagra"* [CA No.3559/2020] was registered in its entirety by order dated 09-11-2020.
>
> Accordingly, the order dated 09-11-2020 issued by High Court of Kenya at Nairobi in case bearing No. HCFOS/E031 of 2020 whereby the judgment dated 28-10-2020 passed by Hon'ble Supreme Court of India in case titled as *"Smriti Madan Kansagra vs. Perry Kansagra"* [CA No. 3559/2020] has been registered is a mirror order in compliance with the said judgment."

10. Having considered the rival submissions, in our view, the Order passed by the High Court of Kenya respectfully deserves and must be shown due deference. Nothing turns on the form and format of the Order, so long as the High Court of Kenya was apprised of all the facts, and the context in which it was approached, for compliance of the directions passed by this Court in the Judgment. Since the registration of the Judgment passed by this Court has been done under the orders of the High Court of Kenya, we accept the submissions made by the respondent. In our view, the registration of the Judgment is sufficient compliance of the direction to obtain a Mirror Order issued from a competent court in Kenya. The fact that the registration was given at the instance of the respondent and the unconditional undertaking given by the respondent to this Court, are sufficient compliance of the directions issued by this Court.

11. Insofar as the matter mentioned at placitum 'a' is concerned, it is submitted by Mr. Divan, learned Senior Advocate that the Family Court and the High Court had granted certain reliefs to the appellant even while

granting custody to the respondent. A comparative chart of the directions issued by the High Court and those in the Judgment has also been presented as under:-

"

Order of High Court (Page 125)	**Judgment of Supreme Court (Page 156)**
Undertaking of mother of Perry who holds Indian Citizenship (page 34 of MA)	**Not Granted**
Perry to file undertaking before Indian Embassy that he shall be submitting to the jurisdiction of the court of India (Page 31 of MA)	**Not Granted**
Smriti shall be entitled to talk to Aditya over audio calls/video calls for at least 10 minutes everyday at a mutually agreed time which is least disruptive to the schooling and other activities of the Aditya;	Smriti will be at liberty to engage with Aditya on a suitable video-conferencing platform for one hour over the weekends; Further, Aditya is at liberty to speak to his mother as and when he desires to do so; **Reduced**
Smriti shall be entitled to freely exchange e-mails, letters and other correspondences with Aditya without and hindrance by Perry or his family;	**Not granted**
Grant of temporary custody of Aditya to Smriti during - Summer and - Winter vacations on the dates to be mutually agreed upon (*Also granted by Family Court)	Smriti would be provided with access and visitation rights for 50% once in a year during the annual vacations of Aditya, either in New Delhi or Kenya, wherever she likes, after due intimation to Perry; **Reduced**
Smriti may visit the Aditya at Nairobi, Kenya. However, she shall not be entitled to take Aditya out of Nairobi, Kenya.	**Not granted.**
Perry shall bear the cost of return air ticket for travel from India once a year and accommodation for seven days for Smriti.	Petty will bear the cost of one trip in a year for a period of one week to Smriti and her mother to visit Aditya in Kenya during his vacations. The costs will cover the air fare and expenses for stay in Kenya; **Additional right to Grandmother.**

”

12. It is submitted that the entitlement of the appellant in terms of the order issued by the High Court was not under challenge before this Court. Neither any substantive appeal was filed by the respondent nor any cross objections were preferred and, as such, said entitlement could not be reduced or whittled down. It is submitted that the appellant was entitled in terms of the directions of the High Court, to have the temporary custody of Aditya throughout the winter and summer vacations. But, that entitlement is now reduced to only 50% of one of the vacations.

13. It is true that there was no appeal or any challenge on part of the respondent insofar as the temporary custody during two vacations are concerned. However, that direction was modified by this Court exercising *parens patriae* jurisdiction which is why the expression “in supersession of the Orders passed by the courts below” was used in paragraph 20 of the Judgment. Requiring Aditya to travel to India and spend the entirety of his two vacations spreading over a period of three months, was considered to be causing hindrance to his normal educational and other activities. Aditya is a bright child of 11 years. In the coming years, his activities on the academic side are likely to increase substantially since he will be required to study under the I.B. curriculum, and learn the local language. As he grows, his horizons are going to be wider. In child custody matters, rather

than the entitlement of either of the parents, what is of paramount importance is the wellbeing and welfare of the child. Therefore, considering the totality of circumstances, including his age at present, it was considered appropriate to grant half of one vacation with the appellant, which is sufficient and serves the desired purpose.

14. In terms of the directions issued by this Court, the appellant along with maternal grandmother of Aditya will be entitled, at the expense of the respondent to spend seven days in Kenya once a year. The directions thus contemplated that in a year, the appellant will have sufficient physical contact and interaction as well as benefit of stay with Aditya.

15. In the circumstances, subject to the discussion with regard to the matter at Placitum *'b'*, the submissions under first segment are rejected.

16. Insofar as the directions sought under the second segment are concerned, Mr. Mehta, learned Counsel for the respondent has welcomed the suggestions of furnishing school report and activities report of Aditya to the appellant. It is also accepted that the respondent shall keep the appellant informed about parents-teachers meetings, and about other functions and activities in the school, and that the appellant will be at liberty to visit Aditya's school, and attend school events and interact with school teachers. In order to facilitate the interaction of the appellant on

these aspects, the e-mail Id. of the appellant as well as her mobile details shall be furnished to Aditya's school, so that the appellant shall be kept in touch with the developments. It is also agreed that appellant shall be informed in case Aditya's school is changed on any future date.

17. Placitum *'a'* of directions sought under the third segment is in addition to the one prayed for under placitum *'a'* of the first segment. On one hand, the appellant desires the temporary custody of Aditya all through Easter, Winter and Summer vacations, and seeks directions that she be allowed to visit Kenya every two months at the expenses of the respondent; while on the other hand, the anxiety and apprehension expressed by the respondent is that repeated visits to India all through the vacations will not allow Aditya sufficient time for his activities and pursuits. Since we have rejected the case of the appellant for having temporary custody all through the summer and winter vacations, we do not accept the present suggestion which is, therefore, rejected.

Similarly, it will not be possible to pass a direction that the appellant be allowed to visit Kenya every two months at the cost and expense of the respondent. If the appellant chooses on her own to go to Kenya, she will certainly be free to do so. But, putting an obligation upon the respondent to finance her trips, would not be appropriate. We, therefore, reject the submission.

With regard to placitum *'c'*, the matter will be dealt with separately hereafter.

With regard to the matter at placitum *'d'*, it must be stated that in accordance with the directions issued in paragraph 20 of the Judgment, Aditya will be at liberty to speak to his relations and friends. Therefore, no further directions in that behalf are called for.

18. We now turn to the directions sought under the fourth segment. It is accepted by Mr. Mehta, learned counsel for the respondent that the respondent will always keep the appellant informed about Aditya's health and medical issues, and will certainly share his medical reports with the appellant; and that in case of any medical emergency, the appellant shall always be kept informed. Placitum *'b'* under this segment prays that the matter be kept pending and Aditya be directed to be produced before this Court for an evaluation every six months for next four years. We do not think it appropriate to call Aditya to Court every six months. But we accept the suggestion of having an interaction with him to see the progress. It is, therefore, clarified that as and when Aditya is in India during any of his vacations, the learned counsel for the appellant may mention the matter so that an interaction with Aditya can be arranged.

19. Moving on to the last set of directions sought under the fifth segment, it is not necessary to pass any direction to keep the OCI Card

Status renewed as suggested. Similarly, no orders are called for in connection with placitum *'b'* of this segment, as the order passed by the High Court of Kenya in registering the Judgment has already been found to be in sufficient compliance with the direction issued by this Court.

20. However, in the context of direction sought at placitum *'c'* of the third segment, we see force in the submission that the appellant be given liberty to meet Aditya on his Birthdays. We, therefore, direct that in addition to direction (g) in para 20 of the Judgment, the appellant shall be allowed every year, one more trip for a week financed by the respondent, coinciding with the Birthday of Aditya (which falls on 2nd of December). Thus, the appellant will have the benefit of two trips to Kenya in a year, out of which one will be with her mother as well. These two visits will be in addition to 50% of the annual vacation as granted in direction (f) of Para 20 of the Judgment. Apart from the opportunity of enjoying the company of Aditya, these interactions will help in maintaining the bond between the son and the mother.

21. In the circumstances we hold and direct:-

A) Except for direction issued earlier in paragraph 20 of this Order, and matters accepted by the learned counsel for the

respondent, no orders are called for in respect of any of the directions sought for by the appellant.

B) All the directions issued in paragraph 20 of the Judgment hold good, with the addition of the one issued in paragraph 20 of this Order.

C) A further affidavit shall be filed by the respondent within three days of this Order, that he shall abide by this Order and the additional direction issued in paragraph 20 of this Order.

D) The respondent is not required to obtain any fresh Mirror Order in respect of the aforesaid additional direction, before Aditya is taken to Kenya, and it shall be sufficient if an appropriate application to have this Order registered, in the same manner as the Judgment was registered, is preferred within two weeks of Aditya reaching Kenya, and the copy of such registration is thereafter filed in this Court at the earliest.

E) After filing of the further affidavit as stated above, the respondent shall be at liberty to take Aditya to Kenya as directed earlier in the Judgment.

22. Miscellaneous Application No.2140 of 2020 stands disposed of accordingly without any order as to costs. Miscellaneous Application No.2170 of 2020 in Civil Appeal No.3559 of 2020 (Office Report for Directions) does not call for any further directions and also stands disposed of.

..……J.
[Uday Umesh Lalit]

……..J.
[Indu Malhotra]

……..J.
[Hemant Gupta]

New Delhi;
December 08, 2020.