

Court No. - 39

Case :- FIRST APPEAL No. - 1100 of 2023

Appellant :- Smt. Ranjana Yadav

Respondent :- Swapnesh Yadav

Counsel for Appellant :- Omar Zamin

Counsel for Respondent :- Amrit Shanker Dubey

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Mr. Omar Zamin, learned counsel for the appellant and Mr. Amrit Shanker Dubey, learned counsel for the respondent.

2. The present first appeal has been filed under Section 19 of the Family Court Act, 1984 arising out of the order dated 21st August, 2023 passed by the Additional Principal Judge, Court No.2, Family Court, Firozabad in Suit No. 15 of 2019 (Swapnesh Yadav Vs. Smt. Ranjana Yadav). By that order, the court below has rejected the objection raised by the present appellant to the territorial jurisdiction of that court to entertain such application seeking guardianship of the minor child born to the parties.

3. Initially the matter was heard on issue of territorial jurisdiction of the Family Court at Firozabad, in the context of the claim made by the present appellant that consequent to her re-marriage, she resides at Gautam Budh Nagar (Noida) with the minor child. It was also disclosed that she works at Bulandshahr and commutes to her place of work from Gautam Budh Nagar. Thus, it was stated that the Family Court at Firozabad had no territorial jurisdiction to hear the proceedings for guardianship of the minor child. Further, it had been contended that the issue of guardianship of minor child had been set at rest in the divorce case proceedings, wherein custody of the minor child was given over to the present appellant.

4. The above contentions were contested by the learned counsel for the respondent.

5. Upon hearing, earlier we had required the learned counsel for the parties to obtain fresh instruction in light of the facts noted in the order dated 24th December, 2020 passed in H.M.P. Case No. 209 of 2020 (Smt. Ranjana Yadav Vs. Swapnesh Yadav).

6. Today, Mr. Zamin, learned counsel for the appellant and Mr. Dubey, learned counsel for the respondent have stated that the parties have reconsidered their position in the best interest of the minor child.

7. Mr. Dubey, learned counsel for the respondent does not deny the fact that the order dated 24th December, 2020 passed by the Additional Principal Judge, Family Court No.2, Firozabad does exist

and the perusal of that order indicates that the custody of the minor child was given over to the appellant. However, he claims visitation right in favour of the respondent.

8. Mr. Zamin, learned counsel for the appellant states that in the best interest of the minor child, visitation right to the respondent may be granted. To that extent, the appellant is agreeable.

9. Accordingly, it has been jointly proposed by the parties that the respondent may visit and meet his minor child on every second Saturday beginning December, 2023, such that, the appellant may communicate to the respondent one of the three locations, namely, (i) Gaur City Mall, Noida, (ii) GIP Mall, Noida and (iii) DLF Mall, Noida or any other place as the child may suggest, on the preceding Friday, so as to allow the respondent to meet his child at such place at 01:00 p.m. The appellant undertakes to ensure that the child is present on such location at 01:00 p.m. on every second Saturday as may allow the respondent the company of his child from 01:00 p.m. to 05:00 p.m., without taking the child out of the agreed premises. At the end of the time i.e. 05:00 p.m., the respondent undertakes to hand over the child to the appellant or her husband, at such premises itself.

10. For the purpose of convenience and compliance of the above observations, the E-mail IDs of the parties have been communicated by the parties as under:

"(i) Appellant-Smt. Ranajana Yadav-RUBYYDV 1990 @ Gmail.com

(ii) Respondent-Swapnesh Yadav-209 NICESWAPNESH @ Gmail.com)".

11. As to the demand of maintenance being made by the appellant, we find no basis for grant such maintenance at present, insofar as it is undisputed fact that the appellant has re-married and also she is gainfully employed as a primary teacher at a school run by the Basic Education Department of the State, at Bulandshahr.

12. In view of the above this consented order, proceedings before the court below shall stand terminated.

13. This appeal is **disposed of** with the observations made herein above.

(Shiv Shanker Prasad, J.)

(Saumitra Dayal Singh, J.)

Order Date :- 8.11.2023

Sushil/-