

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11890 of 2023

Petitioner :- Deepali Agarwal

Respondent :- Akash Aggarwal

Counsel for Petitioner :- Mehul Khare

Hon'ble Ashutosh Srivastava,J.

Heard Shri Jitendra Singh along with Shri Mehul Khare, learned counsels for the petitioner.

Considering the nature of the order proposed to be passed the notice upon the sole respondent is being dispensed with.

The petitioner is the legally wedded wife of the sole respondent. She has instituted a suit registered as Case No. 69 of 2023 (Deepali Agarwal vs. Akash Agarwal), under Section 7/25 of the Guardians and Wards Act 1890, which is stated to be pending.

Learned counsels for the petitioner submits that though various dates have been fixed in the proceedings but the application for grant of custody under Section 12 of the Guardians and Wards Act 1890 is pending consideration and the purpose of filing the present petition would stand served if appropriate directions are issued to the Principal Judge Family Court at Ghaziabad to decide the aforesaid pending application under Section 12 of the Guardians and Wards Act 1890 within a time frame fixed by this Court.

Learned counsels for the petitioner submits that the minor child whose custody has been sought was with the petitioner, however the respondent father took the minor child of 4 years from the petitioner mother by deceit. The child has been diagnosed with ADHD disorder and requires constant supervision which the respondent husband is unable to provide. Learned counsel has also submitted that the atmosphere at the house of the husband of the petitioner is not conducive for the well being of the minor child. The application for interim custody is unnecessarily being delayed.

In support of his submissions, learned counsels for the petitioner has invited the attention of this Court to the various orders passed by the Court concerned where-from it is borne out that the

opposite party had already put in appearance and the next date fixed is 15.12.2023 for hearing on interim custody application.

Having heard learned counsels for the petitioner and having perused the record I find that it is a fit case in which indulgence may be granted.

In the opinion of the Court that the petition can be disposed of by requiring the Principal Judge, Family Court, Ghaziabad, to take up the application under Section 12 of the Guardians and Wards Act, 1890 for consideration of interim custody of the ward of the petitioner, on the next date fixed i.e. 15.12.2023, and pass appropriate orders, thereon, after hearing the respondent herein, strictly in accordance with law. If for some reasons, the Court concerned cannot proceed to dispose of the interim custody application, under Section 12 of the Guardians and Wards Act 1890, on the date fixed, it shall fix a short date and make all endeavour to decide the same within three weeks from 15.12.2023.

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

Order Date :- 23.11.2023

Deepak/