

Court No. - 1

Case :- FIRST APPEAL FROM ORDER No. - 472 of 2022

Appellant :- Rohitash Kumar Arya

Respondent :- Ku. Shambhavi Thru. Principal. And Others

Counsel for Appellant :- In Person

Counsel for Respondent :- Rudra Pratap Singh

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Om Prakash Shukla,J.

1. In compliance of the order passed by this Court on 25.09.2023, both the parties, namely, the appellant (father) as well as the respondent no.1 i.e. minor daughter and the respondent no.2 i.e. mother, are present in person.

2. The marital relationship between the appellant and the respondent no.2 has already been set at naught by judgment/decreed dated 06.04.2013 passed by the Family Court concerned and the same has attained the finality.

3. The appellant-father, however, instituted proceedings under Section 25 of the Guardians and Wards Act, 1890 claiming guardianship rights of the minor daughter on various grounds. The minor daughter i.e. Kumari Shambhavi-respondent no.1, who, at present, is approximately 16 years of age, has remained under the guardianship of her mother since last more than 14 years and is presently studying in 11th Standard.

4. The appellant, who appeared in person, was heard several times by this Court. On an ocular estimation of the behaviour of the appellant, it does appear that he has deep sympathies about the welfare of his daughter but the dissolution of marriage for all practical purposes has distanced the relationship beyond repair. In such a situation, where the parents have parted ways and the decree of divorce has attained finality, the rights of guardianship of a minor daughter or consideration for allowing the guardianship rights of a minor daughter leans in favour of the mother. It is on this premise that the Family Court in the present case has rendered the impugned judgment. The issue of guardianship, in our considered view, may be relevant till attaining the age of majority by the respondent no.1 and would lose its relevance thereafter. The growth of the minor under these circumstances cannot be altered in a way detrimental to the welfare of the minor. The education and welfare of the minor is of paramount consideration and courts of law being the guardian of such litigants have to weigh all the relevant considerations before forming an opinion one way or other. We are informed that the minor, in the present case, is pursuing education in an educational institution imparting modern and moral education both.

5. On an assessment made during the court proceedings, we have not been able to gather any factor on account of which the

development and care of the minor girl may require to be fortified on any aspect through judicial proceedings. The mother i.e. respondent no.2 has also distanced herself and allowed her daughter to undergo education independently by extending all the necessary facilities monetary or otherwise.

6. In view of the aforesaid facts and circumstances, no interference is warranted by the Court and the appeal is accordingly **dismissed**.

Order Date :- 9.11.2023
Mohd. Sharif