

Court No. - 15

Case :- HABEAS CORPUS WRIT PETITION No. - 400 of 2023

Petitioner :- Km. Manal And Thru. Her Biological Mother Mumtaz Siddiqui Another

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Home Civil Sectt. Lko And 3 Others

Counsel for Petitioner :- Vijyant Nigam,Alok Chandra,Syed Mohd. Intizar

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard learned counsel for the petitioner as well as learned A.G.A. for the State and perused the record.

This Habeas Corpus Writ Petition has been filed with the following relief:

"issue a writ, order or direction in the nature of habeas corpus commanding/directing the opposite parties to produce the detinue/petitioners before this Hon'ble Court and after recording the statement of the detinue, set them free on their own will/give their custody to the mother of the petitioners being minor children".

Learned counsel for the petitioner submits that the petitioner is mother of the minor children and the father has illegally detained the minor children with him, thus, this Court may issue a direction in this regard so that the custody of the minor children be given to the mother, the next friend.

Learned A.G.A. for the State submits that the relief sought in this Habeas Corpus Writ Petition could not be granted by this Court as the mother of the minor children could not be able to point out any illegality or any infirmity regarding the custody with the father. Thus, the prayer made in this petition could not be granted by this Court and if the mother wants custody of the minor children, then the remedy lies before the appropriate forum under the Guardians and Wards Act, 1890 or Hindu Minority and Guardianship Act, 1956 for claiming the custody of minor children in accordance with law.

After some argument, learned counsel for the petitioner submits that he may be permitted to approach the competent court in

accordance with law under the Guardians and Wards Act, 1890 or Hindu Minority and Guardianship Act, 1956 for claiming the custody of minor children.

Accordingly, the present writ petition is **disposed of** with liberty to the petitioner to approach the appropriate forum in accordance with law for claiming the custody of minor children.

Order Date :- 21.12.2023

Saurabh