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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1782-2024 (O&M)
Date of decision : 22.05.2024

Harjit Kaur ... Petitioner(s)

Versus

Gagandeep Kaur & Anr. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. A.S. Manaise, Advocate for the respondent No.1.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed challenging the order dated 29.02.2024 (Annexure P-5) whereby the natural mother of the minor child (respondent No.1 herein) was granted interim custody of the child.
2. Brief facts relevant to the present *lis* are that the respondent No.1 was married to Bikramjit Singh son of Rajinder Singh on 06.01.2018. Out of the wedlock one baby girl was born on 15.01.2020. Unfortunately, on 12.07.2020 the husband of Gagandeep Kaur (respondent No.1 herein) died due to drug overdose. It is the case set up by the respondent No.1 in her petition under Section 7 read with Section 25 of the Guardian and Wards Act, 1890 for custody of the minor daughter that her in-laws did not behave properly with her and used to taunt her for not bringing requisite dowry and



since 14.05.2023 she was residing in her parental house. After that when the respondent No.1 wanted to meet her daughter, the petitioner and her husband (respondent No.2 herein) are stated to have abused her and filed a false police complaint against her and forcibly took custody of the minor child against the will of the respondent No.1. Alongwith the said petition, an application for interim custody of the minor child was also filed. The application was opposed by the petitioner herein on the ground of concealment. It was, however, averred that the petitioner herein being the grandmother had great love and affection for the minor and she was bringing up the minor with utmost care. It was further averred that the respondent No.1 herein was to solemnize her second marriage and therefore a compromise was entered into between the parties on 01.07.2023 in which it was specifically mentioned that the minor child would continue to reside with the grandparents and the mother (respondent No.1 herein) would not seek the custody of the minor child. The Family Court vide order dated 29.02.2024 (Annexure P-5) directed that interim custody of the minor child be handed over to the mother (respondent No.1 herein). Hence, the present revision petition.

3. Learned counsel for the petitioner would contend that the petitioner is the grandmother who has been looking after the minor child since birth and that the respondent No.1 has since solemnized her second marriage and that all the properties of her son is to be inherited by the granddaughter (minor child). It is further the contention of the learned counsel that after the death of her son, the petitioner and her husband (respondent No.2 herein) and respondent No.1 had entered into a compromise whereby it was agreed that the minor child would remain in the custody of the petitioner and



that the property of the son of the petitioner would be inherited by the granddaughter and that the respondent No.1 would have no connection with the family.

4. *Per contra*, the learned counsel for respondent No.1 would contend that the respondent No.1 has since got married. However, her husband has a daughter from the previous marriage and that both the children would be brought up by her with love and affection that a child deserves. The learned counsel has further relied upon the judgment of this Court in the case of **Nathi Ram & Anr. Vs. Usha Rani [2013 (1) RCR (Civil) 368]**.

5. I have heard the learned counsel for the parties.

6. In the present case the dispute is between the grandmother and the mother of the minor child who are in Court over the custody. The argument of the counsel for the petitioner that since a compromise had been entered into, therefore, the mother (respondent No.1) should be deprived of the custody of the child forever cannot be accepted. The veracity of the compromise is yet to be tested. Further still, the respondent No.1 being the mother would be best suited to look after the needs and welfare of the minor child who is of the tender age of 4 years.

This Court made multiple efforts in trying to persuade the parties to come up with a co-parenting plan where the child would benefit from the love and affection of both the mother and the grandmother. For this purpose the matter was also sent to the Mediation and Conciliation Centre of this Court and a Family Counsellor and a Child Counsellor were also associated before the Mediation and Conciliation Centre. Thereafter, since the mediation failed, this Court once again spoke to the parties to try and see if



there was a possibility of both the parties coming up with a co-parenting plan for the minor child. Though the respondent No.1 was open to the idea and agreeable to the same, however, the petitioner was not inclined. Rather, the petitioner did not come to the Court on 20.05.2024 or today.

The date of birth of the minor child is 15.01.2020. The child is of a tender age and she needs the love and affection of a mother. A mother is the best person to look after the needs of a child. No doubt the love and affection a child gets from grandparents cannot be discarded or underestimated in any manner, however, at the same time the care, love and affection that a child gets from his/her mother is at a totally different level if the mother can provide a conducive environment to the child. Nothing has been brought to the notice of this Court that the mother is not in a position to provide a healthy environment to the minor child in the present case.

This Court was concerned as to whether the respondent No.1-mother had now sought custody in view of the fact that the grandparents had stated that the entire property would devolve upon the child. The learned counsel for the respondent No.1 states that since the compromise is being denied, there is no question of the respondent No.1 even asking for the property on the basis of the compromise.

7. In view of the above, no fault can be found with the impugned order dated 29.02.2024 passed by the Family Court. Meanwhile, the respondent No.1, as directed by the Family Court, shall bring the minor child to Gurdaspur on each and every date of hearing so that the minor child can also interact with the grandmother (petitioner herein). The meeting shall be facilitated in the Mediation and Conciliation Centre at District Courts, Gurdaspur.



8. Disposed off accordingly. Pending applications, if any, also stand disposed off. It is made clear any observations made herein shall not be treated as an expression of opinion on the merits of the case.

22.05.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO