

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 115 of 2024

Petitioner :- Ayudh Singh Thru. His Grandmother (Paternal) Kumkum Singh

Respondent :- State Of U.P Thru. Prin. Secy. Home And 3 Others

Counsel for Petitioner :- Pranjal Krishna, Suhaib Ashraf

Counsel for Respondent :- G.A., Mohit Singh

Hon'ble Shamim Ahmed, J.

1. Heard Shri Pranjal Krishna, learned Counsel for the petitioner, Shri Mohit Singh, learned Counsel for the respondent No.2, Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent No.1 and perused the material placed on record.

2. The present Habeas Corpus Writ petition has been filed on behalf of the petitioner, namely-Kumkum Singh seeking following main relief:-

"a) To issue a writ order or direction in the nature of Habeas Corpus directing opposite party No.1 and 2 to immediately produce the grandson of the petitioner, namely-Master Ayudh Singh, Grandson of Mrs. Kumkum Singh immediately before this Hon'ble Court."

3. The respondent No.2, namely-Sangeet Singh alongwith detinue, namely-Ayudh Singh are present before this Court, who have been identified by their counsel.

4. Learned Counsel for the petitioner submits that the petitioner is the Ex-mother-in-law of the respondent No.2 from her first marriage and the son of the petitioner and the respondent No.2 got married on 14.05.2009 as per Hindu rites and rituals. He further submits that from their wedlock, two sons, namely-Aditya Singh (aged 13 years) and Ayudh Singh (aged 11 years) were born. He further submits that the son of the petitioner died on 04.10.2013, thereafter, the respondent No.4 left her matrimonial house and went to live with her parents and only took her younger son with her and left the elder son with the petitioner. He further submits that respondent No.2 has chosen to take the younger child with her and did not ever contest the custody of her elder son because she has some underlying intention with the custody of the younger child. He further submits that after the death of her husband, the respondent No.2

married another person and is currently living with her present In-laws and has left the detinue with her parents, thus, he submits that the detinue is under illegally custody of respondent Nos. 2 to 4 and he may be released from the custody of respondent No.2 to 4 and his custody may be given to the petitioner.

5. On the other hand, on query made by this Court to the detinue, who is present before this Court in person whether he is studying or not or whether he lives with her mother or not, on which he replied that his name is Ayudh Singh and he is currently residing with her mother and studying in Chauri Parihar Primary School situated in District-Gonda. He also made an statement before this Court that he has no problem with his mother and he is happily living with his mother.

6. The respondent No.2 also made a statement before this Court that the detinue is happily living with her and her second husband is working in Punjab and is taking good care of her son, who was born from the first husband. She further stated that the case setup by the petitioner is false and fabricated and has been instituted only with malafide intentions.

7. Learned Counsel for the respondent No.2 submits that the allegations leveled by learned Counsel for the petitioner against the respondent No.2 is false and fabricated and now they have stated the truth before this Court in person, thus, the averments and arguments advanced by learned Counsel for the petitioner in the present Habeas Corpus Writ Petition falls on this ground that the detinue himself has admitted that he is living happily with her mother and is studying in Fifth Standard in Gonda and his mother and his second father are taking good care of him. Thus, the relief sought by the petitioner cannot be granted by this Court and the petition is liable to be dismissed.

8. Learned A.G.A-I for the State-respondent No.1 also made an agreement with the submissions advanced by learned Counsel for the respondent No.2 and submits that after the statements made by the detinue and the respondent No.2, who are present in person and have denied the allegations leveled by the petitioner, the relief sought by the petitioner cannot be granted by this Court, thus, this petition lacks merit and substance and is liable to be dismissed.

9. After hearing learned Counsel for the parties and going through the statements made by the detinue and the respondent No.2 and on perusal of record, this Court is of the view that the detinue and the respondent No.2 have clearly denied the allegations leveled against the private respondents and the

detenue has admitted this fact before this Court that he is happily living with his mother and is studying in a good school in District-Gonda, thus, no relief as sought by the petitioner can be granted by this Court and the present petition is liable to be dismissed.

10. In view thereof, the present Habeas Corpus Writ Petition is hereby ***dismissed***.

11. No order as to cost(s).

Order Date :- 12.7.2024

Piyush/-