

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 213 of 2024

Petitioner :- Asma Thru. Her Husband Sri Araj Ali

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 5 Others

Counsel for Petitioner :- Shiv S.E. Chitambar

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Shiv S.E. Chitambar, learned counsel for the petitioner as well as Sri Hari Shanker Bajpai, learned A.G.A.-I for the State and perused the record.

The instant writ petition has been filed seeking issuance of writ, order or direction in the nature of Habeas Corpus commanding and directing the opposite parties to produce the petitioner (detenue) before this Hon'ble High Court and she may be set at liberty under the care and custody of her husband.

Learned counsel for the petitioner submits that the detenue is legally wedded wife of the next friend and she is under illegal detention of respondents no.4 to 6, thus, she may be called before this Court and her custody may be handed over to the next friend.

On the other hand, learned A.G.A.-I for the State opposes the arguments as advanced by learned counsel for the petitioner and submits that the detenue is living with her mother and brothers on her own sweet will as the respondent no.4 is mother of the detenue whereas respondent nos.5 & 6 are brothers of the detenue. He further submits that major daughter living with her mother and brothers after marriage is not an illegal custody as the detenue is major and she is free to live anywhere she wants.

Learned A.G.A.-I for the State further submits that he has received instructions from the Sub Inspector of Police, Police Station Mahigawa, District Lucknow dated 22.07.2024 wherein it has been stated that a suit for vidai has already been filed before the learned Family Court concerned, which is still pending. The instructions are taken on record. Thus, he submits that the relief sought in this petition cannot be granted and if the next friend is aggrieved then he may approach the suit which he has already filed for vidai before the learned Family Court

concerned.

After the aforesaid judgment was dictated, learned counsel for the petitioner submits that he will pursue the suit for vidai which has already been filed before the learned Family Court, however, a positive direction may be given to decide the said case expeditiously in the interest of justice.

In view of the statements made by the learned counsel for the petitioner, the learned Family Court concerned is directed to decide the suit for vidai filed by the petitioner expeditiously i.e. within three months, without granting any unnecessary adjournment to either of the parties from the date of filing of the certified copy of this order, unless there is some legal impediment or unless there is any order passed by the higher court staying the proceedings of the case.

With the aforesaid observation, the petition is **disposed of** finally.

Order Date :- 23.7.2024
Saurabh