

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 240 of 2024

Petitioner :- Ms. Ayushi Kashyap Thru. Her Mother Ritu Kashyap And Another

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

Counsel for Petitioner :- Chandra Bhushan

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Chandra Bhushan, learned counsel for the petitioner as well as Sri Ashok Kumar Singh, learned A.G.A.-I for the State and perused the record.

This Habeas Corpus Writ Petition has been filed seeking following main relief:

"(i) Issue a writ of Habeas Corpus commanding the opposite party no.4 to produce the petitioners/detenues before this Hon'ble Court which are under the illegal custody of opposite party no.4 and thereafter given custody of the petitioners to their natural guardian i.e. mother of the petitioners."

Learned counsel for the petitioner submits that the marriage of the opposite party no.4 and Ritu Kashyap (the petitioner) was solemnized on 21.01.2013 and they were living happily. Thereafter, the opposite party no.4 thrown out the petitioner and is not allowing to meet the corpus i.e. the minor children.

Learned A.G.A.-I 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.

In view of the statement made by learned counsel for the petitioner, he is permitted to approach the appropriate forum in accordance with law for claiming the custody of minor children.

Learned counsel for the petitioner confined his prayer that in the interest of justice, the mother may be provided visitation right to meet the minor children.

Accordingly, the mother of the minor children, namely, Ritu Kashyap is permitted to meet the children on fourth Sunday of every month starting from August, 2024 at the residence of opposite party no.4 i.e. House No. 538Kha/226, Khadra, Sitapur Road, Police Station Hasanganj, District Lucknow from 10:30 A.M. till 01:30 P.M. with the condition of giving a day's prior information to the respondent No.4- Vipin Kumar Kashyap (father) regarding her arrival. It is further provided that mother may have conversation with her children by mobile phone, whats app call or video call during 7:30 P.M. to 8:30 P.M. on every Wednesday and Friday. It is made clear that both the parties will not create any nuisance at the time of meeting.

If the mother of the children wants to give any gifts on account of love and affection or do anything for well being of children then father/ respondent no. 4 or any of his family members will not make any objection. However, mother shall keep in mind that such thing will be given, which are for use and safe for the children's health.

With the above observations/directions, this habeas corpus writ petition is finally **disposed of**.

Order Date :- 20.8.2024

Saurabh