

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 272 of 2023

Petitioner :- Anamika Thru. Her Mother Suman Singh

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

Counsel for Petitioner :- Nitin Rastogi

Counsel for Respondent :- G.A.,Amit Kumar Awasthi

Hon'ble Shamim Ahmed,J.

List has been revised and the case is being taken up in the revised.

No one is present on behalf of the petitioner, however, Shri Anand Kumar Shukla, Advocate holding brief of Shri Amit Kumar Awasthi, learned Counsel for opposite party Nos. 4 to 9 and Shri Ashok Kumar Singh, learned A.G.A-I for the State-opposite party Nos. 1 to 3 are present.

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

"(i) Issue a writ order or direction in the nature of Habeas Corpus directing the opposite party Nos.4 to 9 to produce to the petitioner (Minor Anamika the Copus0 before this Hon'ble Court.

(ii) Issue a writ order or direction in the nature of Habeas Corpus directing the opposite party Nos.4 to 9 to set free to the petitioner from their custody with immediate effect and give the custody of the petitioner to her mother."

As per the averments made in this petition, the marriage of the opposite party no.4 and Suman Singh (the petitioner) was solemnized in the year 2014 and they were living happily. Thereafter, the opposite party no.4 enticed away the minor daughter, who is aged about 5 years and even he is not allowing the petitioner to meet the corpus i.e. minor child.

Learned A.G.A.-I for the State-opposite party Nos.1 to 3 and learned Counsel for opposite party Nos.4 to 9 submit that the relief sought in this Habeas Corpus Writ Petition could not be granted by this Court as the mother of the minor child is unable 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 child, 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 child in accordance with law.

As per the averments made in this petition, it has been submitted on behalf of the petitioner that the opposite party Nos.4 to 9 are not allowing her meet her minor child, thus, this Court may grant visitation right to the petitioner to meet her minor child and talk over mobile phone.

After hearing learned Counsel for the parties and after perusing the averments made in this petition, the petitioner is 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 child.

Accordingly, the mother of the minor child, namely, Suman Singh is permitted to meet the child on third Sunday of every month starting from August, 2024 at the residence of opposite party no.4 from 10:30 A.M. till 2:00 P.M. with the condition of giving a day's prior information to the opposite party No.4- Shri Rameshwar Singh (father) regarding her arrival. It is further provided that mother may have conversation with his child by mobile phone, whats app call or video call during 8.00 P.M. to 8.30 P.M. on every fourth Wednesday starting from the month of August, 2024. It is made clear that both the parties will not create any nuisance at the time of meeting.

If the mother of the minor child wants to give any gifts on account of love and affection or do anything for well being of child then father/ opposite party 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 of use and are safe for the child's health.

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

Order Date :- 14.8.2024

Piyush/-