

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3619 of 2015

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Pradyut Kumar Chaubey

.... Petitioner/s

Versus

Garima Kumari

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

- 4 11-12-2015 **1.** Heard the learned counsel, Mr. J.S. Arora, on behalf of the petitioner and the learned senior counsel, Mr. Yogesh Chandra Verma, on behalf of the wife-respondent.
- 2.** It appears that Guardianship Case was filed by the wife respondent for custody of son being Guardian Case No.5 of 2014.
- 3.** By the impugned order dated 24.02.2015, the Court below directed the petitioner-husband to be present physically before the Court and also directed S.P. to produce the son in Court.
- 4.** The learned counsel, Mr. Arora, submitted that the petitioner's son, i.e., Master Prabhav born on 18.04.2012 is ill, therefore, cannot be produced before the Court. Earlier the petitioner had filed writ application challenging the order of the Court below directing the petitioner to produce the child and this



Court in C.W.J.C. No.22071 of 2014 granted liberty to the petitioner to file regular petition raising all the objections and pursuant to the said direction the petitioner has already filed applications before the Court below but the Court below without deciding the said application has directed the S.P. to produce the child.

5. On the other hand, the learned senior counsel, Mr. Yogesh Chandra Verma, appearing on behalf of the wife-respondent submitted that the regular blood test reports have been submitted by the petitioner and in fact the nature of the illness has not been disclosed and that the son was never referred to any specialist or to hospitals and the son is not treated either in PMCH or any other big hospital and moreover, the son is only aged about less than 4 years. Earlier also the petitioner was directed to produce the child but in spite of the direction, the petitioner did not produce the child and, therefore, the Court below has rightly directed S.P. to produce the child because the petitioner is not complying the order of the Court.

6. Perused the order dated 24th February, 2015. Admitted fact is that the child was born on 18.04.2012. As submitted by the learned counsel, Mr. J. S. Arora, he is being looked after by the

petitioner's mother. The mother has filed the Guardian Case for custody of her son, Master Prabhav. The only objection is that the son is ill and medical prescriptions etc have been filed. So far these questions are concerned, if the child is brought before the Court, the Court below will be in a position to see the child himself and, therefore, on the ground that the applications are pending, the petitioner cannot be allowed to flout the order passed by the Court below, particularly when this Court earlier had not stayed the order or set aside the order. The petitioner is only delaying the matter. In such circumstances, the impugned order cannot be interfered with in supervisory jurisdiction.

7. I accordingly, direct the Court below that he shall see that the order dated 24.02.2015 passed by him is complied and the S.P. is also directed to comply the order passed by the Court below and shall produce the child on the next date.

8. Thus, this writ application is according dismissed with the aforesaid direction.

(Mungeshwar Sahoo, J)

Sanjeev/-

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