

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1133 of 2014

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Geeta Gupta Wife of Late Sidharth Gupta Presently residing at C/O Binod Kumar Gupta Officers Colony Laheriasarai, District- Darbhanga

.... Petitioner

Versus

1. The State of Bihar Through The Director General of Police (home) Patna
2. The Superintendent of Police Madhubani
3. The State of Maharashtra through the Director General of Police (Home) Headquarter S.B. Marg Colaba Mumbai-400039
4. The Commissioner of Police Mumbai (Maharashtra)
5. The Superintendent of Police Thane (Rural) District- Thane West - 400601 Maharashtra
6. The Senior Police Inspector Mira Road P.S.- Bevarli Park Kanakiya Mira Road, East Thane-401107 Maharashtra
7. Ram Chandra Gupta Son of Chunni Lal Gupta
8. Anusuya Gupya W/o Ram Chandra Gupta
9. Poonam Gupta D/o Ram Chandra Gupta All are Resident of A Wing 202 Blue heaven, Thakur Complex Police Station Shanta Nagar Kandivelli East Mumbai-400001, Official address -R.C. Gupta AND Co. 301 Rajore Chambers Surat Street Masjid Station East above S.B.I. Bank, P.S.- Pheydhuni, Mumbai -400009 Maharashtra
10. Jai Prakash Gupta
11. Rajesh Gupta Both are Sons of Late Chunni Lal Gupta Both are resident of Swarnrekha Apartment Flat No.- 16 Ground Floor No.-3 Near Lakgram Public School Kalyan West, District- Thane (West) Maharashtra
12. Khustroo @ Sheo Kumari Gupta Wife of Arjun Gupta
13. Arjun Gupta @ Babloo Gupta S/o Raj Kumar Gupta Both are resident of 505 MIG Complex Mira Road Bhyander East, District- Thane Maharashtra

.... Respondents

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Appearance :

For the Petitioner : Shri Satendra Rai, Advocate AC to SC-30
For the Respondent-State : Shri Alok Ranjan, Advocate.
For the Respondent : Shri Satendra Kumar Mishra, Adv.

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA

and

HONOURABLE SHRI JUSTICE AMARESH KUMAR LAL

ORAL ORDER

(Per: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA)

3 12-01-2015

Heard.

The writ petition seeks a direction to the private respondents 7 to 13 for delivering the two-and half-year-old son of the petitioner to her. The child is now of about three years.

As may appear from the statements made by the petitioner in paragraphs-15 and 16 of the petition, the petitioner has already taken steps by filing a petition for having the custody of her son before the appropriate Court, i.e., the Principal Judge, Family Court, Madhubani and during the submission, it was pointed out that notices have also been issued to the respondents in that case but they have not appeared. The petitioner has expressed her anxiety and apprehension both that if the matter is not expeditiously taken up and some interim orders are not issued, it may be possible that the little child was killed by the respondents.

Respondents no. 7 to 13 have appeared through their counsels Sri Shailendra Kumar Mishra, Advocate and the Court has very well put a query to him as to what are his replies to the submissions advanced before us regarding the life of the little child being in danger at the hands of the respondents Sri Mishra has been very categorical in pointing out to the Court that the apprehension is a mere apprehension and could not be the belief and the child is quite well continuing to be safe in the hands of the respondents.

We do not have any reason not to believe the words of the counsel appearing for respondents no.7 to 13 and we indeed treat it as an undertaking for the safety of the child and that shall be treated to be the words for respondents no.7 to 13 also.

For, the petitioner has already taken an appropriate legal step before an equally efficacious forum by filing a petition under Section 26 of the Hindu Marriage Act, we do not have any jurisdiction to entertain the present petition.

However, we direct the Principal Judge, Family Court, Madhubani to expedite the hearing of the issue of custody of the child by taking steps under law, pulling all strings attached to his fingers to ensure that the parties appear before him and resolve the issue of custody of the little child. The respondents have now the knowledge about the pendency of the petition before the Principal Judge, Family Court, Madhubani because this order is being dictated within the very hearing of their learned counsel. This Court trusts that respondents no.7 to 13 shall appear before the Principal Judge, Family Court, Madhubani through their counsel and if the Court so requires, personally also and cooperate fully with the Principal Judge, Family Court, Madhubani. During his submissions, Sri Mishra was also informing the Court that a similar petition has been filed by the respondents in some

competent court in Mumbai. We are not to issue any direction to that Court, but may record that if the petitioner is so advised she may seek transfer of that petition to the appropriate Court for appropriate adjudication of the issue.

With the above direction and observations, this petition is dismissed as not maintainable.

(Dharnidhar Jha, J)

B.Kr./-

(Amaresh Kumar Lal, J)

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