

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No:3437 of 2015

Date of decision:19.06.2015

Twiny Jain

....Petitioner

Vs.

Mohit Jain

...Respondent

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Vivek Aggarwal, Advocate,
for the petitioner.

Mr. Sandeep Verma, Advocate
for the respondent.

RAKESH KUMAR JAIN, J(ORAL)

The petitioner has challenged the order dated 28.04.2015 directing the petitioner to hand over temporary custody of the male child Haridhan to the respondent within three days from the commencement of the summer vacations of 2015 of the child in the school, before the Chief Judicial Magistrate, Ambala/ Duty Magistrate in between 10:00 a.m to 12:00 noon. On next day of completion of custody period of seven days the respondent would hand over custody of the child to the petitioner through the same process at Ambala.

Counsel for the petitioner has submitted that an earlier application for temporary custody, filed by the respondent was dismissed by the family Court, Ambala on 06.06.2015 but visiting rights were given to the respondent once in a month i.e. 3rd Saturday of the month in the Court premises where he could meet the child from 9:30 a.m to 4:00 p.m. The respondent challenged that order by way of Civil Revision No. 2499 of 2015 but did not pursue the same as it was withdrawn on 09.04.2015.

Thereafter, the present application has been filed on the pretext that the respondent seeks the custody of the child during his summer vacations.

Counsel for the petitioner has relied upon decision of this Court in the case of *Mrs. Daksha Bhardwaj versus Dr. Anmol Sethi and ors 2015(1) RCR (Civil) 365*, in which it has been held that to hand over the custody of the minor child to the father for overnight stay at his house would create more confusion and disturbance in the mind of the minor child because of quick change of environment which would have a substantial effect on his psyche. Counsel for the respondent, however, has argued that the custody has been granted by the Court below only for a week which would not effect the psyche of the child in any manner.

I have heard both the learned counsel for the parties and perused the record. The child Haridhan is with his mother since his birth. The petitioner is at Ambala where as the respondent is at New Dehli. The respondent had already tried to secure the custody of the minor child in the past but could not succeed as the order was passed against him on 06.06.2015 only providing him visiting rights that too once in a month, on every 3rd Saturday of the month, in the Court premises, between 9:30 a.m to 4:00 p.m. There was no substantial change of circumstance for which the learned Court below had passed the impugned order which would otherwise cause more harm than good to the child because there would be a total change of place and living environment as at present the child is with his mother residing at Ambala and after the custody is handed over to the respondent, the child would have to be shifted to Dehli to live with his paternal grand parents and father. The judgment relied upon by counsel for the petitioner in the case of Mrs. Daksha Bhardwaj (supra) applies to the

facts of this case. Accordingly, the impugned order does not deserve to be sustained and is thus set aside. Revision petition is allowed.

19.06.2015
rimpal

(RAKESH KUMAR JAIN)
JUDGE