

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Civil Revision No. 3899 of 2015 (O&M)  
Date of decision: 16.6.2015

**Ravneet Kaur Teja**

**.. Petitioner**

**v.**

**Amarjot Singh Teja**

**.. Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sartej S. Narula, Advocate for the petitioner.  
Mr. Raman Mahajan, Advocate for the respondent.

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Rajesh Bindal J.

Challenge in the present petition is to the order dated 21.5.2015, passed by the learned court below, whereby custody of the minor children born out of the wedlock of the parties has been directed to be given to the respondent-husband from 15.6.2015 till 21.6.2015.

Learned counsel for the petitioner submitted that from 2006 onwards, when the respondent had gone to USA and two sons born out of the wedlock were of 4 and 2 years of age, the petitioner along with the children is living in her parental home. The respondent never made any effort to take them back. In the year 2014, he filed petition under Section 9 of the Hindu Marriage Act, 1955 (for short, 'the Act') for restitution of conjugal rights. Though address of the petitioner, as given in the petition, was wrong, however, still having come to know about the same, she appeared. In that petition, application was filed seeking interim custody of

the children born out of the wedlock. The learned court below had initially sent the children with the respondent from 19.5.2015 to 21.5.2015 vide order dated 13.5.2015, however, they were not comfortable. At present, they are on vacations, otherwise they are studying in Mayo College, Ajmer. The respondent had never taken care of the children ever since she was shunted out of the matrimonial home in the year 2006. Vide order dated 17.11.2014, the learned court below had fixed maintenance for the petitioner and also directed for deposit of ₹ 2,00,000/- each in the names of two minor children in fixed deposit, however, the amount has not been deposited till date. The husband, who was initially employed, is not doing any work at present. He further submitted that the respondent had been meeting the children even earlier as he had been coming to the residence of the petitioner at Karnal. This was despite there being no order of the court. The petitioner never complained of. Even now he is welcome. There is no other litigation pending between the parties. Even in terms of Section 26 of the Act, wish of the children is to be seen while granting interim custody. The court below has specifically noticed in the impugned order that the children were not comfortable with their father during their two days' stay and wanted to stay only with their mother, but still custody has been granted for one week.

On the other hand, learned counsel for the respondent submitted that it is wrong to state that the children were not happy with the respondent. They enjoyed not only with father but even with their grand parents. In fact, they are stating so having been tutored. The respondent is MBA and having a commercial pilot licence, however, at present he is not having a regular job. The amount of ₹ 2,00,000/- each could not be deposited in the names of the children as the petitioner had not provided her ID proof. The moment it is provided, the amount will be deposited within a couple of days thereafter. The attachment of the mother to the children is evident from the fact that while going to England for studies, she had left them at Karnal. Now also, they have been sent to Mayo College, Ajmer, whereas there are number of good schools in area around Chandigarh, where even the grand parents and father of the children can also meet them. He further submitted that as was also stand even before the court below, the

petitioner can also accompany the children and all can live together. She will be given due regard. The children can be a bridge between the parents. For proper growth of the children, love, affection and care of both the parents is required. The children are being deprived of love, affection and care of the father.

Heard learned counsel for the parties and perused the paper book.

The children, who are 13 and 11 years of age, were interacted with in chamber. They are studying in 8<sup>th</sup> and 6<sup>th</sup> class in Mayo College, Ajmer. The elder one was admitted in 4<sup>th</sup> class and the younger one in 6<sup>th</sup> class. They flatly refused to accompany the respondent stating that they were not feeling comfortable. They are grown up as studying in Mayo College and staying in hostel. In the case in hand, the respondent filed petition for restitution of conjugal rights in May, 2014, though it was claimed that the parties are living separate since 2006. Be that as it may, the positive aspect of the matter is that there is no other litigation pending between the parties. There may be some differences. No doubt, the respondent had been meeting the children at Karnal, but for the first time after the year 2006, they stayed with the respondent for two days in terms of the order passed by the court below on 13.5.2015. As they stated, they were not comfortable. This may be because of long gap but still a father and grand parents will always remain their well-wisher. Considering the age of the children, I do not find it to be a fit case to thrust upon them the order of the court to stay with their father. The order passed by the learned court below is set aside.

As stated by learned counsel for the petitioner, the respondent shall be at liberty to meet the children at Karnal any time after intimation.

The petition stands disposed of.

(Rajesh Bindal)  
Judge

16.6.2015  
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