

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.3071 of 2015
Date of Decision: 21.8.2015**

Narinder Mohan

.....Appellant

Vs.

Navneet Kaur

.....Respondent

**CORAM:- HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MS. JUSTICE NAVITA SINGH**

Present:- Mr. K.P.S. Virk, Advocate for the appellant.

Mr. N.K. Suneja, Advocate for the respondent.

Rajive Bhalla, J.

The appeal arises from an order dated 27.2.2105, passed by the District Judge, Family Court, Ambala allowing a petition filed by the respondent-wife appointing her as the guardian of the minor child of the parties.

Counsel for the parties submit that during pendency of the appeal, parties have vide settlement dated 29.7.2015 resolved their differences, and agreed that custody and guardianship of the child shall remain and vest in Narinder Mohan son of Inder Paul Singh (the appellant-father) subject to his paying Rs.22 lacs out of which Rs.7 lac remains to be paid. The respondent shall however be entitled to visitation rights. Apart from the present controversy, parties have also agreed to part ways and seek quashing of an FIR registered by the respondent.

The appellant – Narinder Mohan and the respondent – Navneet Kaur are present in Court and acknowledge the correctness of the

settlement. Counsel for the parties and the parties pray that, in view of the settlement, the impugned order may be set aside.

We have heard counsel for the parties and perused the settlement/ agreement dated 29.7.2015. A relevant extract from the settlement reads as follows:-

“b) It has also been agreed between the parties that the custody of the child namely Abhay Partap Singh born out of the wedlock between the parties, who is about 8 years old, shall remain with the appellant- husband Mr. Narinder Mohan @ Narinder Mohan Singh and the respondent-wife Navneet Kaur shall be granted visitation rights. As per the agreement between the parties, the respondent-wife will be entitled to take her son Abhay Partap Singh on every second Saturday of the month from the place where the child is residing with his father and she undertakes that she will give the child back to the father on the next day, i.e. the evening of second Sunday of the month. The respondent-wife shall inform the appellant-husband about the location to which she will take her son for the weekend. If the appellant-husband changes his place of residence with the child he agrees to intimate his new address to the respondent-wife in advance.

It has also been agreed that the respondent-wife shall also be entitled to take her child for a period of 10 days

during his summer vacations in school as per school schedule. The date on which the respondent-wife will take her child will be decided by both the parties by mutual consent during the summer vacations of child.

- c) The respondent undertakes that she shall never claim custody of her child Abhay Partap Singh from the appellant-husband in future and shall have no objection if the FAO No.3071 of 2015 is disposed of as per the present Settlement/ Agreement and the appellant-husband is granted custody of the child permanently. In case the child leaves for United States of America since he has already been sponsored by the grand-parents for the same, the respondent-wife Navneet Kaur will not have any right to compel the child to remain in India and will not obstruct his leaving India. The appellant-husband undertakes to intimate the respondent-wife that the child is leaving for United States of America and also the address to which the child will shift in United States of America as and when the visa is granted.
- d) It is agreed between the parties that the entire aforesaid amount of Rs.22,00,000/- (Rupees Twenty Two Lacs only) shall be paid by the appellant-husband to the respondent-wife by way of three instalments. The first instalment of Rs.7,00,000/- (Rupees Seven lacs only) shall be paid by way of Demand Draft by the appellant-

husband at the time of final disposal of FAO No.3071 of 2015 in terms of the present Settlement/ Agreement, to the respondent-wife in the Hon'ble High Court on the date fixed.”

The dispute in the present appeal arises from a petition for guardianship and custody of the minor. The parties have settled the dispute by a written settlement dated 29.7.2015. The settlement is legal and valid and does not suffer from any legal impediment. A perusal of the aforesaid extract reveals that the custody of the minor and his guardianship shall remain with and vest in Narinder Mohan (the father) whereas the respondent shall have visitation rights as set out in para (b) of the settlement. Navneet Kaur- respondent has received a demand draft No.001498 for Rs.7 lacs dated 20.8.2015, thereby completing the total amount of Rs.22 lacs payable to her in accordance with the settlement.

The appeal is, therefore, partly allowed, order dated 27.2.2015, passed by the District Judge, Family Court, Ambala is modified in terms of clauses (b), (c) and (d) of settlement dated 29.7.2015. Parties shall be bound by terms of the settlement. It is, however, made clear that in case either party violates the settlement, the other party shall be at liberty to seek revival of the present appeal.

(RAJIVE BHALLA)
JUDGE

August 21, 2015
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(NAVITA SINGH)
JUDGE