

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

**FAO No.3629 of 2015 (O&M)
Date of Decision: 19.10.2015**

Vikramjit SinghAppellant

Versus

Kawaljeet KaurRespondent

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Ashish Aggarwal, Senior Advocate with
Ms. Ritu Pathak, Advocate
for the appellant.

Mr. V.K.Jindal, Senior Advocate with
Mr. Amardeep Sheoran, Advocate
for the respondent.

RAJIVE BHALLA, J (ORAL)

The appeal arises from an order granting custody of the minor child (girl) of the parties to the respondent-wife. The appeal came up for arguments on 14.10.2015 when the following order was passed:-

“ Counsel for the parties made a statement on instructions from their respective party that they would abide by the wish of the minor. After due consideration of this statement, we interacted with the minor in chamber. The minor though studying in class IV, is aware of the entire dispute between her parents and on account of our interaction, we are of the opinion that she is capable of taking a considered and conscious decision regarding the parent with whom she wishes to reside. The minor has while stating that it would be ideal if the parents live together, expressed her wish to reside with her mother.

In view of statement made by counsel for the parties on instructions and the statement made by the minor before us in chamber, we dismiss the appeal and direct the appellant to hand over the custody of the

minor to the respondent-mother within three weeks from today.

It would be necessary to record that after the minor made statement before us, both counsel who were instructing the senior counsel, were called into the chamber and apprised about the statement made by the minor.

Sd/-
[RAJIVE BHALLA]
JUDGE

14.10.2015 Sd/-
[REKHA MITTAL]
JUDGE

Before we could put our signatures on the order, the appellant and his parents have put in appearance and state that the minor was confused, and pray for reconsideration of the matter.

Adjourned to 19.10.2015.

The order be kept in abeyance till next date of hearing.

Counsel for the respondent states that notice may be sent to the respondent.

Let notice be issued to the respondent for the adjourned date.

Process dasti.

Sd/-
[RAJIVE BHALLA]
JUDGE

14.10.2015 Sd/-
[REKHA MITTAL]
JUDGE"

We have duly considered the request made by the appellant and his parents, as recorded in order dated 14.10.2015. A perusal of the aforesaid order reveals that the order directing custody of the minor to the respondent-mother has been made on a concession and, therefore, express our inability to recall our order. We are conscious of the fact that

the welfare of a minor is the primary consideration and but for the statement made by the parties, recorded, in order dated 14.10.2015, would have considered this question. Even otherwise, the minor is a girl who has expressed her desire to reside with her mother. The trial Court has also held that the welfare of the minor lies with her mother. Consequently order dated 14.10.2015 is maintained and the appeal is dismissed.

[RAJIVE BHALLA]
JUDGE

19.10.2015
Vinay

[REKHA MITTAL]
JUDGE