

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.84 of 2015

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Seema, Wife of Nitin Kumar, D/o Jaleshwar Prasad Singh, P.S. Rajapakar, District
Vaishali, Parental Address- Village Rahimpur, P.O. Rahimpur, P.S. Biddupur, Dist.
Vaishali

.... Appellant/s

Versus

Nitin Kumar, S/o Nageshwar Prasad Singh, Resident of village- Randaha, P.S.-
Rajapakar, District Vaishali

.... Respondent/s

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Appearance :

For the Appellant/s : Mrs. Shama Sinha, Advocate
Mr. Dharmendra Kumar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 16-08-2016

Delay in filing the appeal is condoned.

I.A. No. 2630 of 2015 is, accordingly, allowed.

This appeal arises out of a proceeding under the provisions of the Guardianship and Wards Act whereby the appellant claims the custody of her minor son and wants to be declared a guardian in respect of him as against the respondent who is the father. It is undisputed that this case was originally instituted in the year 2007 when the child Naman Kumar was about five years of age. The allegation was that the appellant was driven out of the house and the child was retained by the father. In course of time, it is alleged that

father remarried and has a child also from the second marriage. Naman, who was five years in the year 2007 (date of birth 13.11.2002), in our view, his date of birth would be almost 14 years of age now. He having spent all his time with his father, step-mother and the step-child, it would not be in his interest to uproot him from that family where he has lived since his tender age and hand him over to the mother with whom he has hardly spent any time. We may note that the court has given her visitation rights, which order has attained finality, having been unsuccessfully challenged before this Court. There is no evidence of any neglect by the husband in looking after the interest and welfare of the child. There is no reason why the appellant be declared guardian of the child concerned.

For the reasons aforesaid, we are not inclined to entertain this appeal, which is accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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