

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Writ Petition No. 822 of 2016

Date of decision : July 13, 2016

Mandeep Kaur Brar

....Petitioner

versus

UT Chandigarh and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Saurabh Kaushik, Advocate, for the petitioner
Petitioner-Mandeep Kaur Brar in person

Mr. AS Virk, APP, UT Chandigarh for
respondents no. 1 to 3

Mr. RK Samyal, Advocate, for respondent Nos. 4 to 7
Respondents no. 4 to 7 also in person

Fateh Deep Singh, J. (Oral)

In compliance with the previous orders dated 8.7.2016, Damanvir Singh aged 5 years and Nahad Kaur aged 3 years, as has been detailed by the counsel of two sides, have been produced by their father Sukhpreet Singh Brar-respondent no. 4.

The Court has personally interacted with the two minor children in the Court as well as in the Chamber separately as well as together and both the children have refused to go with the mother and rather

the younger child who is daughter has even refused to go in the lap of the mother and have even shown their disliking for the mother and thus have refused to even allow the mother to touch them what to talk of accompanying her as the mother. Her counsel insisted that she wants to take the children who are both below six years of age as she is in a better position and has a preferential right. Having regard to the fact that it would be highly traumatic for these minor children to accompany the mother at this juncture and it will bring about fathomless misery as well as adverse mental and physical impact on them. In the light of the same and the special provisions of law enacted by way of Hindu Minority and Guardianship Act, 1956, the fact who would be in a better position will be comprehensively adjudicated by means of evidence by the said Court and thus, this Court is of the opinion that there is no legal necessity and imminent need to come to the aid of the petitioner.

Without feeling the necessity to comment on the merits, having no merit in the present petition, the same stands dismissed. However, the petitioner is at liberty to approach the appropriate forum, if so advised and which Court shall decide the matter if so entrusted, without prejudiced by the present order which would not in any manner have any impact on the findings of that Guardian Court.

July 13, 2016
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(Fateh Deep Singh)
Judge