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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 1107/2016 & CrI.M.A. 8964/2016

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Judgment dated 30th May, 2016

VANDHNA WADHWA

..... Petitioner

Through: Petitioner in person.

versus

STATE (NCT OF DELHI) & ORS.

..... Respondent

Through: Mr. Sanjay Lao, ASC with Mr. Siddarth Sindhu, Advocate for the State and ASI Shri Ram, P.S. Hari Nagar.
Mr. Ashutosh Dubey, Advocate for Respondent No.7 with Respondent No.7 in person.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by the petitioner under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure seeking a writ of habeas corpus with a direction to the respondents to produce her four years old minor son, Master Tejas, who was stated to be in the illegal custody of respondents no.7 to 10, being the husband and in-laws of the petitioner.
2. The complaint of the petitioner is that initially with her consent and with the consent of her husband, the minor child was staying at Rohtak with his grandparents and the petitioner was meeting the child regularly, however, subsequently, she was not allowed to meet the child, which led to the filing of the present writ petition.
3. Notice in this matter was issued on 4.4.2016. On 7.4.2016 a direction was issued to respondents no.7 to 11 to produce the child on 8.4.2016. On 8.4.2016, the matter was passed over once to enable respondent no.7, husband of the

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petitioner, and respondent no.8, grand-father of the child and father-in-law of the petitioner, to take a decision as to whether they were willing to hand over the interim custody of the child to the petitioner or not.

4. At the second call, the father of the child had undertaken to the Court that he would hand over the interim custody of the child today (i.e. on 8.4.2016) in the evening in the office of the counsel. Thereafter, the matter has been adjourned from time to time to enable the parties to arrive at an amicable settlement. We had also taken up the matter in the Chamber, but no settlement was arrived at.
5. In the meantime, Crl.M.A. 8964/2016 has been filed by the father of the child (respondent no.7) seeking interim custody of the child from the petitioner during vacations.
6. When the matter was listed today, the counsel appearing for the petitioner had sought discharge, which was granted.
7. The petitioner, who is present in person, submits that the child is suffering from Typhoid and requires rest, however, she has agreed that respondent no.7 can meet the child on 12th, 19th and 26th June, 2016, between 5.00 p.m. to 7.00 p.m. at McDonalds, Tilak Nagar, New Delhi. It is also agreed that respondent no.7 would interact with the minor child, Tejas, for two hours in the presence of the petitioner and the petitioner would not cause any hindrance and ensure that the meeting of the father and the child is meaningful. The parties shall be bound by the statement made by them in Court.
8. Respondent no.7 has also stated that he would approach the Family Court for seeking permission of the Court to permit him to meet his child during the intervening holidays.
9. The interim order dated 8.4.2016 passed by this Court stands confirmed till the same is varied or vacated by any competent Court of jurisdiction including the Family Court.
10. We make it clear that in case the respondent no.7 approaches the Family Court for seeking custody of the child, the concession granted by this Court to the mother in handing over the custody of the child would not come in the way of

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respondent no.7. The Family Court shall decide the matter unaffected by any observation made by this Court in these proceedings.

11. As jointly, prayed, present petition and Crl.M.A. 8964/2016 stand disposed of.
12. Dasti, as prayed.


G.S.SISTANI, J


SANGITA DHINGRA SEHGAL, J

MAY 30, 20016
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