

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 970 of 2017

IN

Miscellaneous Jurisdiction Case No. 239 of 2017

=====

Pinki Devi, Wife of Late Avorik Rai, Resident of Bhagwat Nagar, P.S. Agamkuan, District- Patna, presently residing at House No.- 20, Montesouri lane, Opposite Marauti Show room, Boring Road, P.S.- S.K. Puri, Distt. Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Sri Amir Subhani, Home Secretary, Government of Bihar, Patna.
2. Sri Anjani Kumar Singh, S/o not known, the Chief Secretary, Government of Bihar, Patna.
3. Sri P.K. Thakur, S/o not known, the Director General of Police, Government of Bihar, Patna.
4. Sri Shalini Namadri, W/o not known, the D.I.G, Patna Range, District- Patna.
5. Sri Manu Maharaj, S/o not known, the Senior Superintendent of Police, District- Patna.
6. Sri Chandan Kushbaha, S/o not known, the Town Superintendent of Police, Patna District- Patna.
7. Pashuram Rai, S/o Late Pratap Rai, Presently residing at Bhagwat Nagar, P.S. Agamkuan, District- Patna.
8. Amarjeet Rai, S/o Late Pratap Rai, Presently residing at Bhagwat Nagar, P.S. Agamkuan, District- Patna.

.... Respondent/s

with

=====

Miscellaneous Jurisdiction Case No. 1849 of 2017

IN

Miscellaneous Jurisdiction Case No. 239 of 2017

- =====
1. Parshuram Rai, S/o Late Pratap Rai,
 2. Amarjeet Rai, S/o Late Pratap Rai, Both are resident of Village- Chhitar Chak, Nakta Diyara, P.S.- Digha, District- Patna. presently residing at Bhagwat Nagar, P.S.- Agamkuan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Sri Amir Subhani, Home Secretary,



- Government of Bihar, Patna.
2. Sri Anjani Kumar Singh, S/o not known, The Chief Secretary, Government of Bihar, Patna.
 3. Sri P.K. Thakur, S/o not known, The Director General of Police, Government of Bihar, Patna.
 4. Sri Shalini Namadri, W/o not known, The D.I.G, Patna Range, District- Patna.
 5. Sri Manu Maharaj, S/o not known, The Senior Superintendent of Police, District- Patna.
 6. Sri Chandan Kushbaha, S/o not known, The Town Superintendent of Police, Patna District- Patna.
 7. Pinki Devi, Wife of Late Avorik Rai, Resident of Bhagwat Nagar, P.S. Agamkuan, District- Patna, presently residing at House No.- 20, Montesouri lane, Opposite Marauti Show roon, Borin Road, P.S.- S.K. Puri, Distt. Patna.

.... Respondent/s

=====

Appearance :

(In MJC No.970 of 2017)

For the Petitioner/s : Mr. Surendra Kishore Thakur, Adv.

For the Respondent/s : Mr. P.K. VERMA- AAG3

(In MJC No.1849 of 2017)

For the Petitioner/s : Mr. Rajeev Ranjan Sinha, Adv.

For the Respondent/s : Mr. P. K. VERMA - AAG 3

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 14-07-2017

MJC No. 1849 of 2017

This application has been filed by the petitioners Parshuram Rai and Amarjeet Rai for modification of the order dated 06.03.2017 passed in MJC No. 239 of 2017 which arose out of Cr.WJC No. 1150 of 2016. As is apparent, the direction was that it will be the responsibility of the respondent nos. 7 and 8 to ensure



that the children are dropped at the residence of their mother who must be informed before doing that. Children were to be sent by 6 P.M. in the evening every weekend. Only was assigned upon the petitioner, the mother, to ensure that the children are safely returned.

MJC No. 970 of 2016

This contempt application has been filed by the mother of the children alleging that she is not getting visitation right as per the decision of this Court rendered in the aforesaid case. It is alleged that direction for dropping the children at her residence and take away them was not being followed by the uncles of the children who are the brothers of her husband (deceased). They have also filed MJC No. 1849 of 2017 for modification of the said order passed in MJC No. 239 of 2017. Their request is that the children should be handed over to their mother permanently in the Court itself instead of directing them to drop the children at her residence on every weekend.

This Court directed for personal presence of both sides as well as the boy and girl. Both the boy and girl were initially much reluctant in going with their mother but somehow the boy agreed to go with his mother for few hours which was allowed on 29.06.2017. However, when the matter was taken up again on



30.06.2017, the girl also became ready to go with her mother for few hours which was again allowed. Subsequently, when the matter was taken up on 07.07.2017, the matter took a twist as both the girl and boy stated before this Court that they want to stay with their mother only. In such a situation, this Court directed at the first instance that they would be allowed to stay for one week.

Today, both the children as well as their mother, their maternal grandmother, the uncle and aunt are also present. The boy and the girl have categorically stated that they want to live with their mother.

In view of the aforesaid development and in the facts and circumstances of the case that the petitioners of MJC No. 1849 of 2017 are also not ready to drop the children and take away every week rather they are willing to depart with the children in favour of the mother permanently, this Court would direct that both the girl and boy shall go with their mother.

However, another question came to our mind as to what would happen, is the mother, who is facing trial for murder of her husband is convicted in the said case? If she is acquitted there will be no problem, however, if she is convicted then again a question would arise as to where the children would go? The mother of the petitioner, v.i.z., Sunita Devi who is the grandmother



(Nani) of the children is also present and has categorically stated before us that if such situation arises in future she will take care of both the children and she will be happy in doing that.

Accordingly, both the applications stand disposed of with the aforesaid direction and observation.

However, the petitioners of MJC No. 1849 of 2017 would have visitation right, if they so desire, but only in the weekend or holidays.

From henceforth, the petitioners of MJC No. 1849 of 2017 are absolved of the liabilities and responsibilities of the children.

(Dr. Ravi Ranjan, J)

(Vikash Jain, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.07.2017
Transmission Date	NA

