

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1109 of 2017

IN

MA 562 of 2017

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Geeta Devi, Wife of Sri Pravesh Chandra Singh, Resident of Tilakmanjhi, District-Bhagalpur. Petitioner.

Versus

Ramesh G Murti, Son of Late M.R.Govind Raju, Resident of P-803, Jaipuriya Surnise Green, Cuoki-Nitti Kund, P.S.-Indirapuram, District-Gaziyabad, U.P.

.... Respondent

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Appearance :

For the Appellant/s : Mr.J.S.Arora, Sr.Adv.
Mr. Rakesh Chandra, Adv.

For the Respondent/s : Mr. Puneet Siddhartha, Adv.
Mr.Ravi Kamal, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 04-07-2017

Heard Mr.J.S.Arora, learned senior counsel appearing on behalf of the petitioner and Mr.Puneet Siddhartha, learned counsel appearing for the respondent.

Questioning the legal sustainability of the impugned order by which the learned Family Court, in exercise of jurisdiction under Section 25 of Guardians and Wards Act, has passed the order directing the arrest of the ward and handing over the child to the respondent, the present application under Article 227 of the Constitution of India has been filed.

The necessitous facts which need notice for disposal of this application, are that the child in question was born to the legally wedded wife of the respondent and during the course of the delivery of the child, the wife of the respondent died. The petitioner is



the maternal grandmother of the child being the mother-in-law of the respondent and claims to have the custody of the child since 2014 soon after the death of the wife of the respondent. The petitioner has filed a petition under the provisions of the Guardians and Wards Act for appointing her as legal guardian of the said child in her custody and care till she attains majority. The respondent appeared and filed a petition under Section 25 of the said Act praying for handing over the child to the respondent which prayer has been allowed by the impugned order.

After some arguments, learned counsel for both the parties have agreed that the direction be issued to the learned court below for disposal of the main case i.e. Guardianship Petition Case No.06/2014 within a time frame and till then the impugned order may be kept in abeyance. Learned counsel appearing on behalf of both the parties have jointly submitted that the parties undertake to fully cooperate in the disposal of the Guardianship Petition Case No.06/2014 within fixed time frame and would avoid unnecessary adjournments.

In view of the submissions and stand of both the parties as above, this application is accordingly disposed of with direction to the Learned Principal Judge, Family Court, Bhagalpur to dispose of the Guardianship Petition Case No.06/2014 within a period of two months from the date of receipt/production of a copy of this



order. The learned court below is further directed not to grant unnecessary adjournments to the parties who have expressly agreed before this Court not to take such adjournments and cooperate in the disposal of the case within the aforesaid time frame. In case, any of the parties, in the opinion of the court adopts dilatory tactics, the court shall be at liberty to adopt the procedure prescribed in the Code of Civil Procedure in such eventuality for timely disposal of the case. This Court further finds it desirable that the impugned order be kept in abeyance till the final disposal of the case and the enforceability of the impugned order shall abide by the final outcome of the case. It is further observed that any finding in the impugned order shall not prejudice the case of either of the parties, and the same shall be decided by the learned court below on its own merits.

The application is accordingly, disposed of with aforesaid direction.

The learned court below is further directed to submit a report with regard to the disposal of the case.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2017
Transmission Date	

