

**113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.1886 of 2017 (O&M)

Date of decision: March 17, 2017

Boota Singh and another

...Petitioners

Versus

Manpreet Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Naresh Kaushik, Advocate
for the petitioners.

JASPAL SINGH, J.

CM No.5841-CII of 2017

Allowed, as prayed for.

CR No.1886 of 2017

Through the instant petition preferred under Article 227 of the Constitution of India, petitioners have sought setting aside of the order dated February 20, 2017 (Annexure P-5) passed by Additional Civil Judge (Senior Division), Phillaur, exercising the powers of District Judge under the Guardian and Wards Act, 1890 (for short '1890 Act'), vide which, an application filed by respondent-Manpreet Kaur directing the present petitioners to bring minor child, namely, Jasmeen Kaur before the learned trial Court for affording an opportunity to respondent-mother to meet her child has been allowed.

Undisputably, respondent-Manpreet Kaur is none-else but daughter-in-law of the petitioners. The son of petitioners, namely, Paramjit Singh who has already been taken away by the nature on May 9, 2014, was married to respondent-Manpreet Kaur. Out of their wedlock, a daughter, namely, Jasmeen Kaur was born on September 27, 2013 who is presently under the care and custody of the present petitioners i.e. her grandparents.

While assailing the impugned order dated February 20, 2017, learned counsel for the petitioners has contended that respondent-Manpreet Kaur, after demise of her husband-Paramjit Singh, left the matrimonial home on her free will and volition thereby giving the lawful custody of minor child, namely, Jasmeen Kaur to her grandparents i.e. petitioner on June 24, 2015. Subsequently, she took away her all the belongings which were lying in the house of the petitioners and left for her parental house on September 8, 2015 in the presence of Panchayat Members and respectable of the locality. To this effect, writing dated April 26, 2015 and September 8, 2015 were penned down which were signed by the parties to the petition as well as Panchayat Members and respectable of the locality. At that time, custody of Jasmeen Kaur, minor child was handed over to her grandparents i.e. petitioners. However, subsequently, with an ulterior motive respondent-Manpreet Kaur preferred a petition under Sections 8 and 9 of 1890 Act for her appointment as guardian of minor-Jasmeen Kaur and for removal of petitioners from the natural guardianship as well as for custody of minor Jasmeen Kaur. During pendency of the aforesaid petition, an application was moved for production of the minor child in the Court for affording an opportunity to respondent-mother to meet her which has been allowed vide the impugned order dated February 20, 2017. In fact, respondent-mother severed all her relations at the time of leaving her matrimonial home and handing over the custody of her minor child to the petitioners. As such, allowing of application is not legally and factually justified and the impugned order is liable to be *set aside*.

After bestowing due consideration to the aforesaid submissions made by learned counsel for the petitioners and scanning the impugned order, this Court is of the considered view that the impugned order is absolutely in

consonance within a legal proposition applicable to the facts and circumstances of the case and it does not call for any interference by this Court.

Undoubtedly, respondent-Manpreet Kaur is the natural mother of minor Jasmeen Kaur who is at present in the care and custody of her grandparents i.e. petitioners. The mother of minor child has admittedly preferred a petition for her appointment as guardian of minor Jasmeen Kaur as well as for taking her custody. The mere fact that respondent has left the matrimonial home after the demise of her husband and started living with her parents, does not *ipso facto* mean that she cannot be allowed to meet her minor daughter or that all relations stood automatically severed with the minor child. The respondent-mother being the natural guardian of minor girl has every right to meet her (minor child). The giving of directions to the present petitioners to produce the minor child once in a month for meeting with her mother is legally as well as factually justified. As such, impugned order dated February 20, 2017 cannot be faulted with. There is no legal flaw in it.

In the light of the aforesaid discussion, this Court is of the considered view that the instant petition is nothing but devoid of merits, as such the same is dismissed with no order as to costs.

March 17, 2017
m. sharma/avin

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No