

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 355 of 2015 (O&M)
Date of decision: 23.8.2017

Rakhi

.. Appellant

v.

Smt. Baldina and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. H. S. Lalli, Advocate for the appellant.
Mr. Deepak Arora, Advocate for respondent No. 1.

...

Rajesh Bindal J.

The present appeal has been filed by the grand-mother of two children born out of the wedlock of Baldina and late Karnail Masih, namely, Mourace Masih (male) and Neha (female). The marriage of Baldina and late Karnail Masih was solemnised, however, he expired because of illness on 15.9.2004. Two children were born out of the wedlock, who were living with the widowed mother. After the death of Karnail Masih, Baldina had been staying with her in-laws family, however, lateron she re-married about 9 years back. She had taken the children along with her to new matrimonial

home.

The stand taken by learned counsel for respondent No. 1 is that both the children are being taken care of by their step-father.

The petition for custody of the children was filed by the grandparents, which was dismissed by the court below.

Learned counsel for the appellant/grand-mother of the children submitted that as the family has means to take care of the education and upbringing of the children, she will bear entire expenses of their education, if they are admitted in a boarding school and later on even if they join any professional college, till such time they are willing to study. He further submitted that during vacations, the children should be permitted to stay for half of the period with the appellant and other family members, i.e., paternal side of the children and for half of the vacations/holidays, they may stay with their biological mother and step-father. He further submitted that in the records, respondent No. 1 got the name of father changed from Karnail Masih to Kamal, who is the step-father. A correction is required to be made in the records of the school. He further submitted that as the session 2017-18 has already commenced, the appellant and even the paternal uncles are willing to get the children admitted in boarding school from the next session onwards. The school would be at a place, which is located close to the place of residence of the appellant and respondent No. 1 as well.

Learned counsel for respondent No. 1 submitted that respondent No. 1 does not have any objection to the suggestions given by the counsel for the appellant as she is also interested in welfare and education of the children. She will support the appellant or other members of the paternal family of the children in the process of their getting good

education. Learned counsel further submitted necessary correction in the records with the school regarding the father's name shall be got carried out.

After hearing learned counsel for the parties, the present appeal is disposed of while modifying the order passed by the court below to the following effect:

- (i) The appellant and/or paternal uncles of the two children, namely, Mourace Masih (male) and Neha (female) shall get the children admitted in a boarding school situated at a place close to the place of residence of both the parties. The appellant is residing in village Rai Chack, Tehsil Batala, District Gurdaspur, whereas respondent No. 1 is residing in village Shahbad, Tehsil Batala, District Gurdaspur. Avtar Slatiael Masih, one of the paternal uncles, is present in person in court. He has endorsed the aforesaid stand. Even in the affidavit dated 8.3.2016 filed by the appellant, same stand has been taken. Entire cost of education and any other expenses required for the purpose shall be borne by the appellant and/or paternal uncles of the children.
- (ii) During vacations, the children may live with the appellant and/or her family members for half of the duration, whereas for other half period, they will live with the family of respondent No. 1. However, this period can be changed if both the parties mutually agree upon.
- (iii) As far as visitation in the boarding school is concerned,

both the parties can avail of that facility on alternative basis. However, even this schedule can be re-worked with mutual consent. The appellant and/or paternal uncles of the children shall continue to support the children till such time they want to study.

- (iv) As agreed by learned counsel for respondent No. 1, respondent No. 1 will get the name of the father of the children corrected in the school record, which was got changed from biological father to the step-father.
- (v) The boy has already been admitted in a good school at Batala, however, the girl is studying in a government school. The appellant is ready and willing to get her admitted in a good school at Batala for the current session. Respondent No. 1 does not have any objection to the suggestion made by learned counsel for the appellant. Let the need be done without any delay.
- (vi) Till such time the children are admitted in a boarding school, during vacations for half of the period they may remain with the appellant or any other members of the paternal family. If their mother wants to accompany the children, she can also accompany them. Learned counsel for the appellant submitted that the appellant will not have any objection to that.
- (vii) As the son is to be treated for eye ailment for which treatment is going on in PGIMER, Chandigarh, the parties are mutually agreed that they will co-operate with

each other in getting that treatment.

(viii) The parties shall continue reporting compliance of the order to the Member Secretary, District Legal Services Authority, Gurdaspur, who will co-ordinate ensuring best education of the children and their upbringing.

The appeal is disposed of accordingly.

A copy of the order be sent to the Member Secretary, District Legal Services Authority, Gurdaspur.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

23.8.2017
mk

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No