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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (CRL) 902/2017**

LT COL BALVEEN SINGH DHINGRA

..... Petitioner

Through: Mr. Siddharth Chopra, proxy counsel
with petitioner in person.

versus

STATE OF NCT & ORS

..... Respondent

Through: Mr. Amit Wahi, proxy counsel with
respondent no. 3 in person.

Insp. Vikram Singh, PS Prashant Vihar, Delhi.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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31.03.2017

This is a petition under Article 226 of the Constitution of India. The petitioner seeks a writ of habeas corpus, a direction is sought by the petitioner to handover the custody of his mother, who is at present residing with his younger brother, respondent no. 3, at Flat No. 504, Savera Apartments, Sector-13, Rohini, New Delhi.

As per the petition, petitioner and respondent no.3 are close relations, being the real brother. In this case, the petitioner was working with the Indian Army and took voluntary retirement in June, 2008. The petitioner took up an assignment in Nigeria and thereafter in Iraq. In the absence of the petitioner being in India, the mother was being looked after by his younger brother i.e. respondent no. 3. It is also averred in the petition that

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the mother suffers from multiple ailments and has undergone three major surgeries of the hipbone and, thus, she is unable to walk and needs constant care and attention. After the demise of the father of the petitioner and respondent no.3 in September, 2012, the family i.e. both the brothers and sister mutually decided that the younger brother would look after the mother and the petitioner and his sister would make a financial contribution for the same. It is alleged in the petition that on the return of the petitioner from his assignments, the petitioner and his sister were not allowed to meet the mother. It is further alleged that the mother is not being looked after by the respondent no. 3. The mother requires immediate medical attention as her condition is deteriorating.

In this case, while issuing notice on 23.3.2017 we had directed respondent no. 3 as also the sister of the parties to remain present in court on the next date of hearing i.e. on 27.3.2017. On 27.03.2017, we had interacted with all the three parties in the Chamber. The respondent no. 3 had categorically stated that he and his family is looking after his mother to the best of his ability and are providing proper medical attention/aid to her. He had also stated that the mother is unable to move on account of old age and hipbone fracture. During the course of interaction in the chamber, the petitioner had offered to take care of his mother as he was better equipped for various reasons, which were discussed. On the last date of hearing, we had permitted, with the consent of respondent no. 3, the petitioner, his wife, his sister and her husband to visit their mother in the presence of a lady Constable. The matter was adjourned for today as the wife of respondent no.3 was not present in Court.

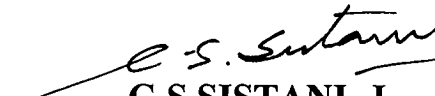
Today, the petitioner, his wife, respondent no. 3, his wife, their sister and her husband are all present in court. After some hearing in the matter, the parties agree that in the best interest of the mother, the custody of the mother will be handed over to the petitioner to enable him to provide her necessary care, medical treatment and attention. It is further agreed that the petitioner, his wife, petitioner's sister and her husband will visit the residence of the mother at 04.30 PM today and bring the mother in an Ambulance to the residence of the petitioner at 4Q-703, AWHO, Gurjinder Vihar, Sector CHI-1, Greater Noida, U.P., along with her belongings and all medical records. It is further agreed that to avoid any unpleasantness a lady constable would remain present. It is also agreed that the respondent no. 3 and his family would not be prevented by the petitioner from meeting the mother, however the meeting would be cordial and prior intimation in this regard would be sent to the petitioner to enable the petitioner to entertain respondent no.3. It is also agreed that the petitioner will withdraw the proceedings filed by him before the SDM (Rohini), Senior Citizen Cell, Village Kanjhawala, Delhi, and respondent no. 3 will withdraw the civil suit filed by him, which is pending before Civil Judge, Rohini Courts, Delhi. However, rights of all the parties are kept open for any other dispute, which may require adjudication. We hope that parties would serve the mother in letter and spirit. It is made clear that the petitioner would be responsible for the care and well being of the mother. This arrangement shall continue for three months and in case the respondent no. 3 is dissatisfied he would be at liberty to seek appropriate remedy as available in accordance with law.

In view of above, counsel for the petitioner submits that no further

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orders are required to be passed in the present petition and the same may be disposed of.

The writ petition is disposed of accordingly. *Dasti.*


G.S.SISTANI, J.



VINOD GOEL, J.

MARCH 31, 2017

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