

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.882 of 2017

1. Jagdish Sah, S/o late Bahadur Sah
 2. Suraj Kumar @ S. Kumar, S/o Jagdish Sah
- Both Resident of Bagdulhan, P.O.- Hajipur, P.S. Town, District Vaishali.

... .. Appellant/s

Versus

Renu Devi, W/o late Suresh Sah, Resident of Bagunhatu, House No. 16/972
C. Block, Road No.-05, Cross Road No. 8, P.S. Sidgora, P.O. Baridih, PIN
831017, Jamshedpur (Jharkhand)

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arvind Kumar Sinha, Advocate
For the Respondent/s :

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 14-09-2018

Heard learned counsel for the appellants.

This appeal is directed against the order dated 17.8.2017
passed by the Principal Judge, Family Court, Vaishali at Hajipur in
Guardianship Case No. 03/2016.

The *lis* is for custody and guardianship of two children,
i.e., Abhiyan Kumar (son of the appellant no. 2 aged about two
years) and Aarushi Kumari (daughter of the appellant no. 2 aged
about one year).

The petitioner-respondent is maternal grandmother of
the children. The appellant no. 2 married to one Neelam Devi on



15.2.2013 and from the wedlock the aforesaid children were born. The appellants are facing criminal prosecution for killing of Neelam Devi, who was daughter-in-law of appellant no. 1 and wife of appellant no. 2, for non-fulfillment of demand of dowry in Hajipur P.S. Case No. 716 of 2015 registered under section 304B of the IPC, in which it is contended today by learned counsel for the appellants that the chargesheet has already been submitted. The Principal Judge, Family Court, Vaishali has noticed in the order impugned that the son Abhiyan Kumar was at that point of time staying at the house of the opposite party nos. 1 and 2. Opposite party no. 1 (Jagdish Sah) is grandfather and the opposite party no. 2 (Suraj Kumar @ S. Kumar) is father, who were absconding to evade their arrest. Thus, the Court has come to the conclusion that the children are obviously uncared as the grandmother of the children is also not alive. The father is facing criminal prosecution under Section 304 B of the Indian Penal Code for killing his wife, i.e., mother of the children. Both husband and the grandfather are absconding or evading their arrest, and the grandmother is no more alive. The view formed by the Principal Judge, Family Court, Vaisahli at Hajipur, in such circumstances, that handing over and allowing the children to remain at that house with the father and



grandfather would not be safe for them and not in their welfare,
does not require any interference.

We do not see any infirmity in the order passed by the
Principal Judge, Family Court, Vaishali warranting interference in
the order impugned.

As a result, in our considered view, this appeal is not fit
to be admitted and the same is dismissed.

(Dr. Ravi Ranjan, J)

(Madhuresh Prasad, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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