

CR No.3675 of 2018 (O&M)

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

**CR No.3675 of 2018 (O&M)
Date of Decision : 30.11.2018**

SANGEETA

....PETITIONER

V/S

SARWAN SINGH AND ANOTHER

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Sumati Jund, Advocate for the petitioner.

Mr. M.S. Atwal, Advocate for the respondents.

Ms. Akshita Chauhan, AAG, Punjab.

AMOL RATTAN SINGH J. (ORAL)

The petition filed by the petitioner under Section 6 of the Guardians and Wards Act, 1890, seeking custody of her child, who is residing with the respondents, i.e. his parental grandparents, has been dismissed by the trial Court vide its judgment dated 19.11.2018, a copy of which has been produced in Court today.

That being so, this petition seeking interim custody has been rendered infructuous, with no comment made by this Court on what has been held by the trial Court in its order dated 19.11.2018, that judgment/order being obviously a separate cause of action against which any party aggrieved would have a separate remedy.

However, it is seen that in paragraph No.11 of the aforesaid order of the trial Court (Additional Civil Judge (Senior Division), Dasuya), it has been stated that the petitioner would be permitted to meet her child in school during school time, with the prior permission of the Principal of the school, and would also be allowed to meet her child upon visiting the house of the respondents during holidays, with the respondents directed to not obstruct the petitioner to meet the child.

Learned counsel for the petitioner has submitted that the petitioner however has not been granted any protection in case she is stopped by the respondents at the time when she seeks to meet the child.

Learned counsel for the respondents submits that this petition having arisen out of an interim order, this Court would not modify the final order passed by the trial Court, even with regard to grant of protection to the petitioner, beyond what is stated in the final order passed by that Court.

Whereas, on merits, learned counsel for the respondents is absolutely correct that this Court would not interfere in the findings of the trial Court in the current proceedings, however, as regards the petitioner being able to meet her child in terms of the order dated 19.11.2018, she being the mother, it is considered appropriate by this Court (even though a separate cause of action may arise to her if she is not allowed to meet the child or is obstructed in any manner), to protect the rights of the mother, as have even given by the trial Court.

It is directed that in case the petitioner is obstructed from meeting her child by the respondents, she would approach the SSP, Hoshiarpur as also the SHO, P.S. Gardiwala for appropriate help, as was

already granted by this Court as an interim measure during the pendency of

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this present petition, with the SSP and the SHO directed to ensure that the petitioner is allowed to meet her child, with a lady constable (and any additional officer if necessary) to accompany her to the resident of the respondents, if such obstruction is made.

It is also made clear that this Court has not, by this order, directed any proceedings to be initiated against the respondents, but only that the order of the trial Court is carried out in letter and spirit by the petitioner, allowing the petitioner to meet her child during holidays at the home of the respondents, or in the school premises with the prior permission of the Principal.

This petition is otherwise disposed of as having been rendered infructuous, with any party aggrieved of the order of trial Court dated 19.11.2018, naturally at liberty to avail her/his remedy in appropriate proceedings.

(AMOL RATTAN SINGH)
JUDGE

November 30, 2018

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