

The facts of the case are that petitioner wife had instituted a petition against respondent under Sections 7 and 25 of the Guardians and Wards Act, 1890, read with Section 6 of the Hindu Minority and Guardianship Act, 1956, before the learned District Judge, Family Court, Gurugram, on 3.11.2016. The learned District Judge, Family Court, Gurugram, vide judgment dated 30.5.2017, allowed the said application and handed over the custody of minor girl of the parties, namely, Dishta Aggarwal, to the present petitioner. Since respondent declined to accept the visiting rights at the time of arguments, therefore, he was given liberty to

file application for seeking visitation rights qua child. Petitioner, who was earlier residing at Rohini, New Delhi, has now shifted to Zirakpur in District Mohali. Both the parties do not dispute that FAO-4545-2017 is pending before this Court and is fixed for 29.5.2018.

Now, after the decision of said application and during pendency of appeal, respondent husband has filed two applications before the learned District Judge, Family Court, Gurugram. In the first application filed under Section 43 (1) of the Guardians And Wards Act, 1890, read with Sections 6 and 8 of the Hindu Minority and Guardianship Act, 1956, (Annexure-P-2), he seeks regulating the conduct of respondent with respect to guardianship of minor Dishta Aggarwal. In the second application filed under Sections 39 (A), 39(E) and 39(H) of the Guardians and Wards Act, 1890, read with Sections 6 and 8 of the Hindu Minority and Guardianship Act, 1956, he seeks removal of respondent as guardian.

I am of the view that subject matter of both the applications can be pressed in FAO-4545-2017, which is pending before this Court and this Court while hearing the appeal can consider the contention of respondent regarding regulating the conduct of present petitioner regarding the guardianship. This Court can always decide as to whether order of grant of custody of minor child to mother is justified or not ? Respondent can always press before this Court that said order be set aside which will have effect of removal of petitioner from the guardianship of minor child. The said applications are nothing, but resulting in multiplicity of litigations regarding plea which can be easily raised before this Court in the first appeal and can be decided in appeal. As such both applications (Annexure-P-2 and

TA No. 851 of 2017 (O/M)

Annexure-P-3) are withdrawn from the Court of learned District Judge, Family Court, Gurugram, and are transferred to this Court, to be decided with FAO-4545-2017, fixed for 29.5.2018. Consequently, petition is disposed of. Since main case has been disposed of, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

5.4.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No