

\$~45

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

+ W.P.(C) 7299/2018

POOJA MANDAL (MINOR) THROUGH FATHER

SH. PARTHA MANDAL

..... Petitioner

Through: Mr Partha Mandal, father of the
petitioner in person.

versus

NATIONAL COMMISSION FOR PROTECTION OF

CHILD RIGHTS & ANR

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

17.07.2018

1. The petitioner's father (Mr Partha Mandal) has filed the present petition, *inter alia*, praying as under:-

“issue a writ, order or direction in the nature of mandamus appointing the respondent no.1 as caretaker OR the father & grandmother of the petitioner child as caretaker of the petitioner; during the time period when the law enforcement authorities register case under different sections of immoral trafficking act and take appropriate action against respondent no.2 and her associates.”

2. The petitioner is a minor child of about two years old and is in custody of her mother. Mr Partha Mandal, who appears in person states that he has not only been deprived of the custody of his minor child (the petitioner) but also visitation rights. Prior to filing the present petition, Mr Mandal had filed a writ petition (W.P.(Crl) 2184/2017 captioned ‘Partha

Mandal v. State of NCT Delhi & Anr.), *inter alia*, praying that his daughter, the petitioner herein, be produced and handover to him. The said petition was disposed of by the Division Bench of this Court by an order dated 01.08.2017. The operative part of which reads as under:-

“Without observing anything on the merits of the matter and the allegations so made, we dismiss this petition as withdrawn. It is directed that, should the petitioner approach the appropriate court of jurisdiction, seeking custody of the minor child, application for interim relief would be decided expeditiously. We make it clear that we have not made any observations on the merits of the matter. The Family Court would consider the application in accordance with law, unaffected by any observations made in this order. The petitioner also complains that he has made various complaints with the local police, which have remained unanswered. Learned counsel for the State submits that the complaints of the petitioner he would be looked into, if filed expeditiously.”

3. Mr Mandal states that after the above petition was disposed of, he had approached the concerned Family Court seeking custody as well as the visitation rights; however, his application have not been disposed of as yet.

4. It is apparent from the above that the dispute, essentially, relates to the custody of the petitioner. Plainly, the said matter is required to be considered by the concerned Family Court. The petitioner has also filed certain documents/material which, he states, that would clearly establish that it would not be in the petitioner's welfare to be kept in custody of her mother. The said matter requires to be considered by the concerned Family Court.

5. In view of the above, the petition is disposed of by leaving it open for Mr Partha Mandal to approach the Family Court, which is in seisin of the

matter relating to the custody and visitation rights of the petitioner. It is expected that the Family Court shall consider his application and dispose of the same as expeditiously as possible and in accordance with law.

VIBHU BAKHRU, J

JULY 17, 2018
MK