

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND**

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

W.P.No.15564 of 2019

Date: 26.07.2019

Between:

Sri Nayak Vittal Rao

...Petitioner

and

The State of Telangana,
Rep. by its Principal Secretary,
Home Department, Secretariat,
Hyderabad and others.

...Respondents

Counsel for the petitioner: Mr. Suresh Shiv Sagar

**Counsel for the respondent Nos.1 to 3: Mr. Santosh Kumar
Special G.P.**

The Court made the following:

ORDER: *(per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

Mr.Nayak Vittal Rao, the petitioner, who claims to be the maternal grandfather of the child, Anusha, has filed this Habeas Corpus Petition ostensibly on the ground that after the death of his daughter, who was married to Devakathe Jagannath, the respondent No.4, the child, Anusha, is being illegally detained by her father, the respondent No.4.

The learned counsel for the petitioner submits that the petitioner's daughter was allegedly killed by the respondent Nos.4 to 6 due to dowry demands. A criminal case is pending against the respondent Nos.4 to 6. Therefore, it will not be in the interest of the child to be left with them. According to him, the child is about two years old. Hence, the child is being illegally detained by her father, and her parental family. In order to buttress this plea that the paramount interest of the child is involved in the present case, the learned counsel has relied on the case of ***Poonam Datta v. Krishanlal Datta and others***¹.

On the other hand, the learned counsel for the State has pleaded that it is a case of child custody between the maternal grandfather and the father of the child. *Secondly*, after the death of the mother, the father is the natural guardian of the child. Therefore, the custody of the child with her father cannot be termed to be an illegal one.

Heard the learned counsel for the parties, and perused the case law submitted by the learned counsel for the petitioner.

Undoubtedly, after the death of the mother, the father is the natural guardian of the child. Therefore, the custody of the two

¹ 1989 Supp1 SCC 587

years old child with her natural father cannot be termed to be any illegal custody. Moreover, the paramount consideration of the interest of the child cannot be gone into by this Court in its Habeas Corpus jurisdiction. Since it is a case of child custody, the petitioner has an efficacious alternative remedy.

Although the learned counsel for the petitioner has relied on the case of **Poonam Datta (supra)**, the case is distinguishable on its factual matrix. Thus, the said case does not support the case of the petitioner.

Since the custody of the child is a legal one, this Court does not find any merit in the present Habeas Corpus Petition. It is hereby dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall also stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(Dr. SHAMEEM AKTHER, J)

Date: 26.07.2019
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