

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7062 of 2018

Date of Decision: 28.05.2019

Neena Sharma

.....Petitioner

Vs.

Upender Sharma

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ankur Lal, Advocate, for the petitioner.

Mr. Sumit Gupta, Advocate, for the respondent.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order passed by the learned trial Court (Additional District Judge, Karnal), 31.05.2018, by which the petitioner has been granted visitation rights to meet the children of the parties on the 2nd and 4th Sunday of every month in a nearby/adjoining hotel to the house of the respondent herein, i.e. the husband of the petitioner (father of the children).

It has also been directed that the respondent, though would be allowed to accompany the children, he would, however, sit in an adjoining room in the hotel and not in the room that the mother is to meet the children.

The expenses of the hotel are to be paid for by the petitioner-mother.

Learned counsel for the petitioner submits that as a matter of fact earlier the trial Court had passed an order on 03.11.2017(copy Annexure P-3), as regards interim rights of the petitioner during the pendency of her petition seeking custody of her children, whereby she had been allowed to meet the children in the house that they were living in, on every 2nd and 4th Saturday from 10:00 a.m. to

12:00 noon, on their birthdays from 03:00 p.m. to 05:00 p.m., and on the festivals of Diwali, Dusshera, Holi and on New Years Eve, from 10:00 a.m. to 12:00 noon.

That order having been challenged by the petitioner by way of CR No. 8597 of 2017, that petition was disposed of by this Court (co-ordinate Bench) on 08.12.2017 (copy Annexure P-4), holding that no ground was made out to interfere with the order passed by the trial Court, but upon a contention raised by counsel for the petitioner at that stage, the petitioner was given liberty to file an application before the trial Court seeking that she may be given additional visitation rights and be permitted to meet the children at a public place.

That application having been filed, the impugned order has come to be passed.

Learned counsel for the petitioner further submits that as a matter of fact, vide the impugned order, even the visitation rights on days other than Sunday, as had been given vide the previous order, have not been specified; and further, the petitioner has been burdened with the costs of meeting the children in a hotel.

He therefore submits that the children be allowed to be brought to her home and visitation rights be given to her more frequently, or interim custody of the children be given to her during the pendency of the petition before the trial Court.

Learned counsel for the respondent has opposed all contentions raised learned counsel for the petitioner, drawing attention of this Court to both the orders passed by the trial Court, as also the order passed by this Court in CR No. 8597 of 2017.

Having considered the matter, as regards interim custody, that prayer is declined, this Court already having considered that matter in the petition earlier filed by the petitioner.

As regards the question of additional visitation rights, in my opinion, it would be appropriate that the rights already given to the petitioner, vide the previous order of the trial court, allowing her to visit the children on the 2nd and 4th Sunday of every month for two hours, as also on various festivals/days also given in that order of the trial Court (dated 03.11.2017), be granted to her.

As regards permission to take the children to the home of the respondent, this Court also having in the previous petition only granted liberty to meet the children at a public place, I would find myself bound by that order, keeping in view also the reasons given in the order of the trial court as had been earlier impugned, passed on 03.11.2017.

Consequently, this petition is disposed of with a direction that other than the 2nd and 4th Sunday of every month, the petitioner would also have visitation rights to her children on the days already given in the order passed by the trial Court on 03.11.2017, with permission to also take them to a public park, within the allotted time (if the petitioner so desires), with the father (respondent herein) to remain in the background in the park, but not directly interacting with the children at that point.

As regards the expenses of the hotel, they would be borne equally by the petitioner and the respondent.

Learned counsel for the respondent also having submitted that the petitioner is delaying leading evidence before the trial Court, the trial Court would ensure that the trial is positively concluded early, taking all steps as are necessary to ensure that the needful is done.

May 28, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes