

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

CRWP No.204 of 2019

Date of Decision: March 01, 2019

Dr.Sarojini Jamadagni

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vivek Goyal, Advocate
for the petitioner.

INDERJIT SINGH, J.

The petitioner has filed this criminal writ petition against State of Haryana and other respondents under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus by way of appointment of a Warrant Officer to search the premises of respondent No.3 including his residence and other places and set at liberty daughter of petitioner namely Divyanjali as she is in illegal/forcible custody of respondent No.3.

I have heard learned counsel for the petitioner and have gone through the record.

At the time of arguments, it has been brought to the notice of this Court that a matrimonial dispute arose between the petitioner and respondent No.3 and minor girl is residing with respondent No.3 for the last

five years. A settlement took place between the parties, which is Annexure

P-3. I have gone through the settlement. From the perusal of the settlement itself, it is clear that father shall hand-over the custody of daughter namely Divyanjali to the mother and shall also pay an amount of ₹12 lakhs. The age of the child is stated to be 9 years. Now, it is argued that respondent No.3 has sent the minor girl to Nepal but there is no such document to support this fact. It is also argued that in view of the settlement, a petition under Section 13(B) for divorce has been filed but petitioner (respondent in this case) did not appear to give second statement before the District Judge.

From the perusal of the record and after hearing the arguments, I find that there is dispute between the parties regarding custody of the minor girl. The minor girl Divyanjali is in the custody of the father for the last so many years. It is not the case that minor girl has been recently snatched or forcibly taken from the custody of the petitioner. In these circumstances, habeas corpus petition is not maintainable. Rather, remedy lies before the Guardian Judge, who will decide the dispute of custody of the minor after taking evidence and hearing the arguments and will look into the welfare of the minor, which is a paramount consideration.

Therefore, finding no merit in the present petition, the same is dismissed. However, the petitioner is at liberty to approach the Guardian Judge to avail remedy.

March 01, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No