

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

FAO-5307-2015

Date of decision : 20.08.2019

Ram Kali & ors.

....Appellants

V/s

Babli & ors.

....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Parmod Chauhan, Advocate for the appellants.

Mr. Ivneet Pabla, Advocate for the respondent no. 1.

RAJAN GUPTA J.

Present appeal is directed against the order dated 20.05.2015 passed by Additional Civil Judge (SD), Kurukshetra whereby petition under section 25 of the Guardian & Ward Act, 1890 filed by respondent no. 1 seeking custody of her minor children has been allowed.

Learned counsel for the appellants submits that respondent no. 1 has no love and affection towards her minor children. According to him, respondent no. 1 choose herself to live separately from her minor children as she was having illicit relations with some other person. Thus, trial court has gravely erred in allowing the petition. Plea has been opposed by learned counsel representing respondent no. 1. According to him, impugned order has been passed keeping in view the best interest and welfare of the children.

We have heard learned counsel for the parties and given careful thought to the facts of the case.

Brief factual background of the case is that respondent no. 1 got married to Chander Parkash son of appellant no. 1 in the year 1999 at

Pehowa, District Kurukshetra. Out of this wedlock, five children were born. Unfortunately, husband of respondent no. 1 died in a road accident on 05.04.2010. Petitioner (respondent no. 1 herein) Babli, widow, filed petition under section 25 of the Guardian & Ward Act, 1890 seeking custody of minor children on the ground that they were not being looked after properly by respondents (appellants herein) who were maintaining their custody after death of Chander Parkash. She further alleged that respondents only wanted to grab the money of her children which was awarded as compensation on account of death of her father. Reply was filed by respondents. They stated that petitioner was having illicit relations with some other person and if the custody of minors was handed-over to her, their life would be spoiled. Besides, petitioner was having no source of income to maintain them. They claimed that minors were living happily and every care was taken for their healthy upbringing. Trial court after considering the rival contentions and judgments cited before it came to the conclusion that respondents, being old, were unable to maintain the minor children and interest of minors can best be protected, if their custody be handed-over to petitioner, being natural guardian.

We find no infirmity with the impugned order. It is evident that marriage of respondent no. 1 was solemnized with Chander Parkash, son of appellant no. 1 and out of their wedlock five children were born. It is borne on record that after marriage both the parties were residing together for about 15-20 years in a rented accommodation and even after the death of her husband Chander Parkash, respondent no. 1 alongwith her minor children continued to live with the appellants for about 3-4 years. During that period, no complaint was made by the appellants regarding the cruel behavior of

respondent no. 1. It would not be in the welfare of the children to be taken away from their natural guardian.

In view of above, we do not find any merit in the present appeal. Same is hereby dismissed.

(RAJAN GUPTA)
JUDGE

August 20, 2019
Ajay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No