

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6081-2018 (O & M)
Date of decision: 18.11.2019

Roohi Ajay Matai @ Roohi Satsangi Appellant

V/s

Ajay Krishan Matai ...Respondent(s)

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

Present: Mr. Karan Singla, Advocate, for the appellant.

Mr. D.D. Singla, Advocate, for the respondent.

RAJAN GUPTA, J. (Oral)

Pursuant to order dated October 18, 2019 report from the Secretary DLSA has been received.

Present appeal emanates from the order dated 13.07.2018 passed by the Family Court at Gurugram whereby the petition filed by petitioner-father of the minor child namely Akshar Ajay Matai @ Akshar Ajay, for custody was allowed regarding visitation rights to the mother. Marriage of the petitioner-Ajay Krishan Matai (respondent herein) and respondent-Roohi Ajay Matai @ Roohi Satsangi (appellant herein) was solemnized on 18.04.2008 as per Sikh rites. A son was born out of the wedlock on 18.11.2010. Certain differences developed between the couple due to which they separated. On 03.11.2017, petitioner-husband instituted a petition under Section 25 of the Guardian and Wards Act, 1890 before the Family Court at Gurugram seeking permanent custody of the child.

Notice of the petition was issued to the respondent-wife. Her counsel put an appearance and sought time. However, he failed to file any

written statement. As a result, defence of the wife was struck off vide order dated 15.08.2017. The counsel also failed to cross-examine the witnesses produced by the petitioner-husband. It is stated before this court that the application in this regard has been filed against the counsel before the Bar Council. In absence of the rebuttal by the respondent-wife, the Family Court has given certain findings which contained aspersions on the character of the wife (appellant herein).

Under the circumstances, we have proposed that the matter be remitted to the Family Court, Gurugram for the hearing of the matter from the stage when the defence was struck off. Learned counsel for the respondent-husband has no objection to this. He, however, submits that visitation rights may be granted to the husband.

In view of the above, we allow this appeal and set aside the order under challenge. Matter is remitted to the same court for a decision afresh at the earliest preferably within five months. Respondent-husband shall be at liberty to move an application for visitation rights before the court below.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

November 18, 2019
sukhpreet

Whether speaking/reasoned : Yes
Whether reportable : No