

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.29 of 2020**

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Dr. Syed Md. Najib Bihari @ Imran @ Mo. Najib Bihari @ Mohd. Najeeb Behari S/o Mojib Bihari @ Mo. Mujib Bihari, residence of 98/191-C-1, Mohalla- Kalumal Bagicha, behind Rupam Talkies, Bekanganj, Dist- Kanpur (U.P.) - 208001.

... .. Petitioner

Versus

Syeda Tarranum Bano W/o Dr. Syed Md. Najib Bihari @ Imran @ Mo. Najib Bihar @ Mohd. Najeeb Behari, D/o of Late Mahmudul Hassan, residence of Kalumal Bagicha, behind Rupam Talkies, Bekanganj, Dist. -Kanpur (U.P.) - 208001 At Present Mohalla- Quazi, P.O and P.S.- Sherghati, Dist- Gaya.

... .. Respondent

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Appearance :

For the Petitioner/s : Mr. Awadhendra Kumar, Advocate.

For the Respondent/s:

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 03-02-2020

The present application has been filed “*for setting aside the order dated 17.10.2019 passed in Guardianship Case No. 05/2014 by the court of learned Principal Judge, Family Court, Gaya whereby the petitioner has been directed to produce his minor child aged about six years without assigning any reason for the same and in consequent thereof vide order dated 16.11.2019 bailable warrant of arrest has been issued against the petitioner for not production of the child before the learned Court below.*”

2. Learned counsel for the petitioner submits that the learned Court below ought not to have required production of the minor child without assigning any reason for the same and in the absence of any requisition by the respondents. By its subsequent order dated 16.11.2019, bailable warrant has been issued against the petitioner for non-production of the minor child. Reference is invited to Section 12(1) of the Guardians and Wards Act, 1890



(hereinafter referred to as ‘the Act’) which empowers the Court to make an order for production of a minor.

3. Having heard learned counsel for the petitioner and on consideration of the materials on record, this Court is not inclined to interfere in the matter. It appears that the petitioner did not respond to the order dated 17.10.2019, whether by way of objection or by way of compliance, rather he chose to ignore the order of the Court. A perusal of Section 12(1) of the Act does not appear to place any embargo on the powers of the Court and provides that it may direct the person, if any, having custody of the minor, shall produce him at such place, time and before such person as the Court may appoint and also make an order for the temporary custody and protection of the person or property of the minor as it thinks proper.

4. In this view of the matter, this Court finds the petition to be devoid of merit and is dismissed as such, with the liberty that if there is any difficulty on the part of the petitioner to produce the minor, he may file a petition before the learned Court below in this regard for consideration on its own merits.

(Vikash Jain, J)

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