

24.11.2020

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(Via Video Conference)
WPA 4817 of 2020
with
CAN 1 of 2020
(Old CAN 4669 of 2020)
with
CAN 2 of 2020
(Old CAN 4670 of 2020)
with
CAN 3 of 2020
with
CAN 4 of 2020
with
CAN 5 of 2020
(All CANs are not in the file)
Snehashis Sarkar
Vs.
The State of West Bengal & ors.

Mr. Biplob Das

...for the petitioner.

Mr. Subhobrata Dutta

Mr. Sougata Mitra

...for the State.

Mr. Raj Mohan Chattoraj

Mr. Sankar Prasad Dalapati

Ms. Divya Tiwary

Mr. Satyajit Mahata

...for the respondent no.4.

This is a disturbing trend in which the habeas corpus jurisdiction is becoming more a matrimonial battlefield and is being abused in guardianship matters.

The petitioner, the father of the alleged missing child, complains of the mother of the child having illegally taken away the child. The petitioner cannot show any order by which the mother has been prohibited by any court from having custody of the child.

The State is represented and confirms that the fourth respondent mother of the child has custody of the child. Since the petitioner cannot demonstrate that the mother's custody of the child is illegal and the mother as a natural guardian of the child is entitled to have custody of the child unless prohibited by an order of court, nothing remains of this misconceived habeas corpus petition.

WPA 4817 of 2020 is dismissed and all interim applications stand disposed of.

The petitioner is spared the costs.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)

