

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

CR-2130-2020 (O&M)
Date of decision: 01.10.2020

Gurwinder Kaur

...Petitioner

Versus

Gurjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. Vikas Gupta, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The petitioner herein is a mother of a 13 years old boy. She prays for visitation rights. At present, the child is in the custody of respondent (Ex-husband of the petitioner).

The marriage of the petitioner and respondent was dissolved on 03.12.2011 by a decree divorce by mutual consent passed by the Court under Section 13-B of the Hindu Marriage Act. Thereafter, the respondent filed a petition under section 24 of the Guardians and Wards Act, 1890 seeking custody of minor male child which was allowed on 22.09.2016 by an ex parte judgment. The petitioner filed an application for setting aside the exparte judgment dated 22.09.2016 which is stated to be pending. In CR-543-2020, the directions have already been issued to decide the application within a period of 3 months vide order dated 30.01.2020. The petitioner filed an application for permission to visit the minor child (Dilbar Singh), which has been dismissed on the ground that the petitioner should have filed

an application under the provisions of Guardians and Wards Act, 1890.

Learned counsel for the respondent vehemently opposed the prayer made in the petition.

In the considered view of this Court, the Subordinate Court has taken a very narrow view of the matter. The petitioner, a mother, had only prayed for visitation rights. It is not in dispute that the child has remained with the petitioner till 29.08.2019 before he was taken away pursuant to the order of the Court dated 22.09.2016.

Keeping in view the aforesaid facts, the order dated 17.03.2020 passed by the trial Court is set aside. The petitioner is granted visitation rights, twice a month i.e. on every 2nd and 4th Sunday in the forenoon session.

Keeping in view the facts of the case, learned Subordinate Court is requested to work out the modalities for implementation of the order within a period of 10 days from the date of receipt of copy of this order.

In view of what has been observed above, the present petition is allowed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

01.10.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No