

HIGH COURT OF CHHATTISGARH, BILASPUR

FA(MAT) No.85 of 2020

- Sunil Kewat S/o Shivpal Kewat Aged About 35 Years Caste - Kenwat, R/o 64/1, Village Galhatha, Post, P.S. And Tahsil Jaitpur, District Shadol Madhya Pradesh., District : Shahdol, Madhya Pradesh

---- Appellant

Versus

1. Smt. Mamta Kenwat S/o Ganga Prasad Kenwat Aged About 33 Years R/o Village Chanwaridand, P.S. And Tahsil Manendragarh, District Korea Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Utkaesh Kenwat S/o Shri Sunil Kumar Kenwat Aged About 8 Years Minor Through Natural Guardian Respondent No. 01, Mamta Kenwat, R/o Village Chanwaridand, P.S. And Tahsil Manendragarh, District Korea Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Respondents

Present:-

Shri Vijay Kumar Sahu, counsel for appellant.
Shri Nishikant Sinha, counsel for respondents.

Division Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava & Hon'ble Shri Justice N. K. Chandrawanshi

Order On Board

10/09/2021

Heard.

1. This appeal is directed against the impugned order dated 01-01-2020 passed by the Judge, Family Court, Manendragarh, District Korea, whereby custody of the child has been given to the mother as also granting visitation rights to the appellant.
2. Learned counsel for the appellant submits that while granting visitation rights to the appellants, the Court below has not accepted the prayer that the appellant should be allowed to take the child to his hometown, for that purpose, few days custody of child is necessary.
3. During the course of arguments, learned counsel for the appellant could not dispute that the order was passed by the Court below after ascertaining the wishes of the child. If that be so and taking into consideration the age of the

child, we are not inclined to change the nature of visitation rights only on the ground that the appellant is the father of the child. Reliance placed by learned counsel for the appellant in the case of ***Yashita Sahu vs. State of Rajasthan and others***¹, is misplaced on facts, because, in that case, the peculiar circumstances existed and certain arrangements were made by the Court, taking into consideration the welfare of the child.

4. In the present case, on facts, at this stage, we are satisfied that the grant of visitation rights to the appellant, does not require any alteration. Moreover, at this pandemic time, movement of the child from one station to other station may adversely affect the health of child apart from his studies and comfort zone.

5. Considering that at present the child is aged 14 years, we are inclined to grant liberty to the appellant-father to move an application for seeking periodical and temporary custody of the child by taking him to own place of living after a period of one year from today, subject to wishes of the child.

6. Subject to observations made, this appeal is accordingly dismissed. Let appellate decree be drawn accordingly.

SD/-
(Manindra Mohan Shrivastava)
Judge

SD/-
(N. K. Chandrawanshi)
Judge

Tumane

¹ (2020) 3 SCC 67