

*(In virtual Court)*

.....Petitioners

.....Respondents

Respondent No.4 in person.

This is a revision petition filed under Article 227 of the Constitution of India for quashing/setting aside the impugned order dated 18.05.2021 (Annexure P-7) passed by the Principal Judge, Family Court, Gurugram (for short, the trial Court), whereby the application for interim custody of minor Charu Sharma, aged 9 years, grand-daughter of the petitioners has been dismissed and ordered to keep the minor child in shelter home.

Despite being informed, learned counsel for respondent No.1 has not come present today. Respondent Nos.2 to 4 are duly represented. Respondent Nos.2 and 3 have submitted that they are acting only as per the order of the Court. Otherwise, the girl child is being looked after properly.

Learned counsel for the petitioners has submitted that the petitioners had applied for the custody of their grand daughter. The petitioners are having a permanent residence. Besides this, they are having a cloth shop as source of income. Not only that, while denying the interim custody to the petitioners, the trial Court has not given any specific reason as to why the custody of the girl child could not have been given to the petitioners. Learned counsel for the petitioners has further submitted that keeping the minor girl child in shelter home would divert her from the normal course of her development. Learned counsel has also referred to the report of shelter home wherein the observations have been included to the effect that the girl child is not comfortable in the shelter home. Hence, it is prayed that custody of the girl child be handed over to the petitioners.

Having heard learned counsel for the petitioners and the respondents No.2 and 3, who are present in person, this Court finds that the order passed by the Court below; does not give any specific reason as to why the interim custody of the minor girl child could not have been handed over to the petitioners, particularly, when the parents of the girl child have not shown any interest in taking custody of that child. Only this much has been recorded that at an earlier occasion, the petitioners had an opportunity to come forward for seeking custody, however, they did not come forward to take the custody. However, in view of this Court, this is hardly a ground

to deny the interim custody of the girl child to the petitioners, whenever they have approached the Court for that purpose. Needless to say that the trial Court has not recorded anywhere how giving the interim custody of the girl child to the petitioners is not in the interest of welfare of the child.

So far as the custody of the girl child with the shelter home is concerned, obviously, it could be only a temporary resort. After sometime, no child can be comfortable at that place, if he/she is otherwise having his/her family. That is reflected from the report of shelter home as well, wherein the observations; as mentioned below; have come on record:

“XXXX

**Any observation**

It seemed as though the child has learnt a script and all she could say was, she wants to go home. She isn't comfortable staying at shelter and doesn't mingle with kids. Child wants to become a doctor and is good at science.

XXXXXX”

The above said report of the shelter home categorically shows that the girl child is not comfortable at the shelter home. Such undesired custody within the shelter home can cause a devastating psychological effect upon the girl child. Hence, it would not be in the interest of justice to keep her at the shelter home, at this stage. When the grand-parents are very much available and they are praying for the custody, then it would be, *prima facie*, in the interest of the welfare of the girl child to hand over the custody to her grand-parents; instead of sending her to the shelter home.

In view of the above, the impugned order dated 18.05.2021

passed by the Court below; is set aside. The petitioners are permitted the interim custody of the girl child till the final disposal of the application before the Court below. The girl child be handed over to the petitioners/grand-parents within a period of two days from the date of receipt of certified copy of this order.

All pending miscellaneous applications, if any, are also disposed of as such.

**(RAJBIR SEHRAWAT)**  
**JUDGE**

**20.07.2021**  
*sandeep*

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No