

In virtual Court

CRWP-482-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-482-2019 (O&M)
Date of decision: 28.07.2021

Sompal

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: None for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

None for respondents No.2 & 3.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for issuance of a writ in the nature of habeas corpus to recover the detinue namely Lovish, minor son of the petitioner, who is stated to be in custody of respondent No.2 Bimla Devi widow of Dev Raj and respondent No.3 Manish daughter of Dev Raj.

It is stated in the petition that the petitioner was wedded to one Pooja (since deceased), who is daughter of respondent No.2 and sister of respondent No.3 and a child was born out of this wedlock on 02.09.2015 and after one year of the birth, Pooja was diagnosed with bone marrow cancer and died on 02.02.2017. It is further stated that minor child is residing in the

company of respondents No.2 & 3 and the same be handed over to the petitioner.

Reply by way of affidavit of Deputy Superintendent of Police, Sub Division Abohar, District Fazilka is on record. In this reply, the aforesaid facts are not disputed. It is stated that child is living in the safe custody of respondent No.2 Bimla Devi and respondent No.3 Manisha is now married and is not residing with respondent No.2. In this regard, statement of ex-Municipal Councillor was recorded by the police.

Learned State counsel has submitted that a petition is also filed by respondent No.2 Bimla Devi before the Civil Court at Sri Muktsar Sahib for custody of the minor child Lovish, as the petitioner is having no financial source to upbringing the child and pay the school fee.

On 04.03.2020, an objection was raised on behalf of respondents No.2 & 3 that respondent No.2 is having sufficient income and can take care of upbringing of minor child. It was submitted that the petitioner has performed second marriage; a fact, which was denied and accordingly, the petitioner was directed to file an affidavit regarding his income as well as the fact that he has not performed second marriage, so as to ascertain whether the petitioner is capable of take care of minor child or the custody should continue with respondent No.2-maternal grandmother.

Since neither any affidavit is filed by the petitioner nor there is any representation on his behalf and considering the fact that this petition is pending since 2019 and no amicable settlement could be arrived at between the parties

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before the Mediator, this petition is disposed of, by granting liberty to the parties to approach the Court at Sri Muktsar Sahib, where the petition for custody of the minor child is pending.

The concerned Court is directed to dispose of the petition expeditiously preferably within a period of six months from today.

**[ARVIND SINGH SANGWAN]
JUDGE**

28.07.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No