

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.471 of 2016

Arising Out of PS. Case No.-138 Year-2015 Thana- JALE District- Darbhanga

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Khusboo Singh W/o Late Prashant Kumar Singh, resident of Akilpur, P.O.- Baruan, P.S.- Sonapur, District- Saran, Bihar presently residing at C/o Ram Sewak Singh, Village- Sondahi Jogiara P.O.- Jogiara, P.S.- Jalley, District- Darbhanga, Bihar- 847303

... .. Petitioner/s

Versus

1. The State Of Bihar Through Its Home Secretary, Govt. Of Bihar, Patna, Bihar and Ors
2. Director General of Police, Patna
3. The Superintendent of Police, District- Darbhanga
4. The Superintendent of Police, District- Saran
5. The Officer-in-Charge, P.S.- Sonapur, District- Saran
6. Abdhesh Singh S/o Durga Pd. Singh, of village Akilpur, P.O. Barun, P.S. Sonapur, District- Saran, Bihar
7. Rahul Singh son of Mr. Abdhesh Singh, resident of village Akilpur, P.O. Barun, P.S. Sonapur, District- Saran, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Kumar Singh, Adv. Mr. Prabhojot Singh, Adv.
For the Respondent Nos.6&7:		Mr.Ramakant Sharma, Sr.Adv. Mr. Akshay Ashish, Adv. Mr. Dhananjay Mishra, Adv. Mr. Subodh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

29 01-08-2022 This writ application has been filed for issuance of an appropriate writ in the nature of a writ of mandamus directing the respondents to recover the minor twin children from the accused in Darbhanga Jale P.S. Case No.138 of 2015 registered under Sections 498A and 354/34 I.P.C. The recovery has been sought from the possession of respondent nos.6 and 7 who have



allegedly forcefully and illegally taken the custody of the minor children of the petitioner. The petitioner is said to be the mother of the minor children and she claimed herself the natural guardian.

The records of this case reveal that as back as on 13.09.2018 both the parties duly represented by their learned advocates resolved the matter amicably. The order dated 13.09.2018 is being reproduced hereunder for a ready reference:-

“When the matter was called out today, learned senior counsel representing both the parties came out with their respective stand, but at the end everybody had a pious wish that they will be acting in tandem in the interest of the two minor boys.

The petitioner with two minor boys and the grandfather as well as great grandfather as also the grandmother are present in Court. The mother of the two boys in presence of the learned senior counsel representing her has also desired that she is willing to provide all kind of support to the two boys with the help of grandfather and the great grandfather as well as from her own resources. The Court has been informed that both the boys are admitted in a school at Delhi and they are pursuing their study. Learned senior counsel has submitted that the receipts showing admission of the two



boys in the school shall also be produced on record with affidavit.

Mr. Sharma, learned senior counsel representing the grandfather submits that having lost his son now the entire hope of the grandfather is on the two minor boys and he is looking for all kind of support to them with a request to the mother that he should have also access to the minor boys with whom he can interact at his will and during the vacations the boys should be allowed to come to the village where they can stay sometime with him. He has offered that the petitioner should also stay with the boys during vacations at the village.

Regarding one death claim proceeds which is likely to be received, the parties agree that the amount which will be received on account of claim arising out of the death of the father of the two boys shall be deposited in a fixed deposit in the name of the minor boys who will be represented through their mother as a guardian, but the mother will not withdraw the amount and its only after the boys will attain the majority they will receive the amount. It is however agreed that in case of certain exigencies for purpose of meeting their educational expenses and for other well-beings of the children the money may be utilized with the consent of the parties.

At this stage, the parties agree that the matter may be sent to the mediation centre attached to this Court where they can sit together, discuss



their issues and come out with modalities as to how they propose to stay together, take care of the two children, protect their interest and ultimately they will be spending their time. It is also stated by Mr. Singh, learned senior counsel representing the petitioner, on instruction, that the petitioner will withdraw two criminal cases which have been lodged by her against her in-laws. The parties agree that in the claim case both of them shall file an affidavit in terms of the statements made by them before this Court which have been recorded hereinabove.

Let the records of this case be transferred to the mediation centre attached to this Court immediately.

As agreed, let the matter be taken up in the mediation centre on Monday (17.09.2018) positively at 11.00 am when both the parties with their respective counsel shall be present to discuss the modalities among themselves and come out with a solution.

The petitioner along with two children is presently staying in a hotel. However, she desirous of to go to Darbhanga, but it has been agreed that the grandfather of the two boys will bear the expenses of the hotel and fooding expenses of the petitioner and the two children. It is also agreed that at least from today till Saturday the grandfather and the grandmother as well as the great grandfather shall be meeting the children in the hotel and shall stay sometime with them as per their convenience to



which petitioner will have no objection. The petitioner may also visit her Maiké at Darbhanga on Saturday second half and shall come back by Sunday night so that she can attend the proceeding before the mediation centre on Monday.

With the consent of the parties, the mediators may also fix any other date if required to come out with solution of the entire issues but in any case the entire exercise must be completed within a period of two months. The report shall be submitted to this Court by the mediators.

Matter will be listed on 19th November, 2018 maintaining its position.”

Pursuant to the said order, a mediation took place and the mediation report is available at Flag ‘J’. Thereafter, the matter has been adjourned from time to time.

At this stage, Mr. Ramakant Sharma, learned senior counsel representing the respondent nos.6 and 7 submits that in fact the parties have resolved their dispute but one issue relating to payment of the proceeds under the LIC policies has remained to be resolved. It is submitted that under one of the policies the mother of the deceased is the nominee whereas in another policy the wife of the deceased is a nominee.

This Court finds that perhaps the LIC policies have remained unsettled because of the rival claimants. It is for the



rival claimants to sit together and after amicably resolving their dispute submit a proper discharge to the LIC whereupon the LIC may consider the same.

So far as this writ application is concerned, nothing survives for adjudication in the present writ application. It has become infructuous and is being disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

