

23.08.2022
Sl. No.513(ML)
srm

W.P.A. No. 20740 of 2021

Ashmatara Bibi

Versus

The State of West Bengal & Ors.

Mr. Chandan Dutta

...for the Petitioner.

Ms. Jayeeta Sinha,
Mr. Sandip Mandal

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.5 and 6.

The petitioner alleges that the police authorities of Goghat Police Station have failed and neglected to act in terms of the order dated February 9, 2021. An application under Section 97 of the Code of Criminal Procedure for recovery of the minor son had been filed by the petitioner. It is the contention of the petitioner that the learned Sub-Divisional Magistrate, Arambagh Sub-Division had directed the Officer-in-Charge, Goghat Police Station to investigate into the allegation of wrongful confinement of the minor son and also produce the minor son before the learned Magistrate.

The police report is taken on record. It appears that the minor son was produced in court. The child was living with

the respondent Nos.5 and 6. The respondent No.6 is the father. The respondent No.5 is the step-mother. The learned Sub-Divisional Magistrate found that the child was in good and healthy condition. That the child was attending the school regularly and rejected the claim of the petitioner of forceful confinement of the child. The learned Sub-Divisional Magistrate also recorded that the petitioner's absence in the proceedings on July 9, 2021 before the learned Sub-Divisional Magistrate, implied that she has no interest over the issue.

Thus, the allegation of police inaction is not substantiated. It is not for the police authorities to decide the custody of the child. The petitioner has other remedies under the law to claim custody and visitation rights of the minor son, which she have not availed of.

The writ petition is, thus, dismissed.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)