

September 15, 2022
AD 46
Court No.1
SG

MAT 771 of 2020
with
CAN 1 of 2020

Jalaluddin Sekh
vs
The State of West Bengal and others

Ms. Pampa Dey (Dhabal), Advocate
... for the appellant

Ms. Sipra Mazumdar,
Mr. Sougata Roy, Advocates
... for the State

Mr. Soumyadeep Biswas, Advocate
... for respondent Nos.5 to 7

By this appeal the writ petitioner has challenged the order of learned Single Judge dated 13.03.2020 in WP 2945 (W) of 2020 granting liberty to the appellant to approach the civil court for remedying his grievance as regards the custody of his daughter.

A perusal of the writ petition reveals that the wife of the appellant was suffering from cancer and was staying with her parents and had died on 25.12.2019. The appellant's minor daughter born on 27.08.2010 had continued to stay in his father-in-law's house. Therefore, the appellant had made several complaints to the police in respect of the custody of child and filed a petition seeking direction to the police authorities to take action against private respondent Nos.5 to 7 for illegal custody.

Learned Single Judge has duly considered the issue in the proper factual background of the case and has

noted that the child has attained the age of having intelligent preference in the matter of custody and in such a case the police authorities are not entitled to do anything under the law. Learned Single Judge has reached to the conclusion that the appellant is required to approach the competent authority for getting the issue of custody of child decided.

Learned counsel for the appellant has informed that the appellant has already approached the competent court for custody of child.

Learned counsel for respondent Nos.5 to 7 has also informed that they have also filed application for retaining the custody of the child.

We also take note of the fact that the order of learned Single Judge was passed more than 2½ years back and thereafter above subsequent developments have taken place, therefore need to issue any direction in the writ petition does not survive. Otherwise also the order of learned Single Judge does not suffer from any error. Therefore, no case for interference is made out.

Accordingly, the present appeal is dismissed.

[Prakash Shrivastava, C.J.]

[Sugato Majumdar, J.]