

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

230

CRWP-7863-2021
Decided on : 09.03.2022

Labh Kaur and another

. . . Petitioners

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Y. K. Jamwal, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Rishabh Gupta, Advocate as Legal Aid Counsel
for respondent No. 6.

VIKAS BAHL, J. (Oral)

The present Criminal Writ Petition has been filed under Article 226 of the Constitution of India in the nature of Habeas Corpus for issuing directions to official respondents to get the alleged detainee (as named in the headnote of the petition) released from the alleged illegal custody of respondent No. 5.

Learned counsel appearing for respondent No. 6, at the outset, has submitted that prior to the filing of the present petition, petitioner No. 2 had filed a petition dated 05.07.2021 under Sections 7, 8, 9, 25 and 26 of Guardianship and Ward Act, 1890 for the custody of the minor child. A copy of the said petition has been shown to this Court which is taken on record as Mark-A. It is also stated that even

respondent No. 6 has filed a petition under Section 25 of Guardianship and Wards Act, 1890 for claiming custody of the minor daughter who is stated to be with the Child Welfare Committee, Ambala City. It has been submitted that in the said petition, another prayer has been made for interim custody of the minor child. It is further submitted that both the said cases are listed on the same date before the same Court and the said facts have not been brought to the notice of this Court in the present petition and has submitted that the present petition should be dismissed with heavy costs on account of the said concealment.

This Court has interacted with the minor child as well.

Learned counsel for the petitioners has submitted that in view of the abovesaid facts, the petitioners seek to withdraw the present petition. It is, however, prayed by learned counsel for the petitioners that since the petitions filed for custody by the petitioner and respondent No. 6 are pending before the Principal Judge, Family Court, Ambala, thus, in order to resolve the whole dispute, a direction be given to the Principal Judge, Family Court, Ambala for deciding the same as expeditiously as possible, in a time bound manner.

Learned counsel for respondent No. 6 has no objection to the said course of action.

In view of the same, the present petition is dismissed as withdrawn.

However, keeping in view the fact that the petitions filed by petitioner No. 2, who is the father of the minor child and by respondent

No. 6, who is the mother of the minor child, are pending for 14.03.2022 before the Principal Judge, Family Court, Ambala in which a prayer has also been made for interim custody, a direction is given to the Principal Judge, Family Court, Ambala to decide the application for interim custody as expeditiously as possible and, at any rate, within a period of 3 weeks from the date of receiving the certified copy of the present order.

The petitioners as well as respondents are also directed to give full assistance to the trial Court for the expeditious disposal of the said petitions.

During the course of hearing, there is a consensus between the petitioners and the respondents that till the time the application for interim custody is not decided by the Court below, the child will continue to live at Aashiana Children Home, Sector-16, Panchkula and respondent No. 6 would be at liberty to meet the child on every Sunday for three hours from 11:00 AM to 2:00 PM.

The abovesaid observation will not effect the case of either of the parties before the Principal Judge, Family Court, Ambala, who shall assess and decide the case independently, on its merits, both, with respect to interim custody of the child as well as the main case.

March 9th, 2022
Mehak

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No