

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 1047 OF 2023

Laxmi Manohari Roy

.Petitioner

Vs.

State of Maharashtra & Ors.

.Respondents

Mr. Bhaskar Jha for the Petitioner.

Mr. A. R. Kapadnis, APP for the State.

**CORAM : SUNIL B. SHUKRE AND
KAMAL KHATA, JJ.**

DATE : 23 MARCH, 2023

P. C.

. Heard.

2. The contention of the Petitioner is that the daughter of the Petitioner and Respondent No. 3 has been clandestinely taken away by Respondent No.3 to his home State i.e. Assam, without any permission of the Petitioner. Therefore, according to the learned counsel for the Petitioner, this is a case of illegal detention warranting issuance of Writ of Habeas Corpus.

3. Learned APP appearing for the State of Maharashtra points out from the petition itself that Respondent No.3 has

already filed the petition under Section 25 of the Guardian and Wards Act, 1890, praying for a declaration that Respondent No. 3 is guardian entitled to the custody of their daughter.

4. Ordinarily, the biological parents are the natural guardians of their children and in the present case, it is not in dispute that the Petitioner as well as Respondent No.3, are the biological parents of their daughter. So, in the capacity as the natural guardians, both the parents would be entitled to have custody of their child, unless there are differences between husband and wife, which have a bearing upon the welfare of the child. In the present case, the differences are indeed there, and they have given rise to a custody dispute which in our opinion, would be a dispute of civil nature and therefore this Court would have no jurisdiction to entertain this petition seeking issuance of Writ of Habeas Corpus. The Petition is, therefore, dismissed with liberty to the Petitioner to resort to such appropriate civil law remedy as may be available to the petitioner for redressal of her grievance.

(KAMAL KHATA J.)

(SUNIL B. SHUKRE, J.)