

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

136

2023:PHHC:129710

CR-102-2021

Date of decision: 06.10.2023

NEHA KUMARI

..Petitioner

Versus

AVTAR SINGH AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dheeraj Mahajan, Advocate
for the petitioner.

Mr. Amandeep Singh Manaise, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The correctness of the order passed by the Family Court while deciding an application for interim custody of a minor child is subject matter of challenge in this revision petition. The petitioner herein is the mother, whereas, the respondent No.1 is the father of the child.

2. On 27.01.2021, the Court in the interest of justice, passed the following order:-

“Learned counsel appearing for the petitioner argues that the order dated 07.01.2021 passed by the Principal Judge, Family Court, Gurdaspur has taken away the right of the petitioner to keep the minor child with her on the grounds that she has solemnized the marriage despite the subsistence of the earlier marriage with the respondent and that the step father will not look after the minor son, without there being any evidence to support the said findings. Learned counsel appearing for the petitioner submits that the male minor child, who is only three years of age and is living with the petitioner right from the day of his birth needs his mother at this age so as to take care of him.

Notice of motion.

Mr. A.S. Manaise, Advocate accepts notice on behalf of respondents and submits that the petitioner-wife is living in adultery, which is an admitted fact and, therefore, the custody of the minor child has rightly been granted by the Court below to the respondent-father.

In the present case, the paramount interest of a minor child is to be kept in mind. Minor son is only three years of age and is living with her mother right from the day of his birth and in case, child is shifted to another atmosphere the changed atmosphere will affect the said child or not needs to be considered by this Court before arriving at any conclusion.

To come up for detailed arguments on 16.03.2021.

The operation of the impugned order shall remain stayed till the next date of hearing.

At this stage, learned counsel for the respondents submits that at least the respondent-husband should be granted the visitation rights to visit the child.

Learned counsel for the petitioner does not raise any objection for the grant of visitation rights to the respondent-husband.

Keeping in view the above, the respondent-husband will be allowed to visit the child twice in a month for at least 3 to 4 hours on each visit before the Mediation and Conciliation Centre, Gurdaspur as agreed by the parties concerned.

Let the parties appear before the Mediation and Conciliation Centre, Gurdaspur on 06.02.2021. Thereafter, the Mediation Center will fix the next date of meeting after ascertaining the convenience of the parties concerned.

It is made clear that the parties will behave in a required manner before a child of 03 years of age so as to ensure that the child is not mentally affected during the meeting in any manner.”

3. This arrangement has continued for the last one year and eight months. The main petition filed before the Family Court is now at the stage of evidence of the respondent. He undertakes to conclude the same in next two opportunities.

4. The learned counsel representing the petitioner submits that he will need only two opportunities to conclude her evidence.

5. Keeping in view the aforesaid facts, the revision petition is disposed of while requesting the Family Court to make sincere endeavour

for final disposal of the petition, positively within a period of 9 months, from today.

6. In the meantime, the interim arrangement, which has already worked for a period of one year and eight months would continue during the pendency of the petition.

7. All the pending miscellaneous applications, if any, are also disposed of.

October 06th, 2023
Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*