

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

**FAO-971-2023 (O&M)
Date of Decision: 28.02.2023**

ASHA

..... Appellant(s)

Versus

AJIT SINGH

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Mukesh Yadav, Advocate
for the appellant.

LISA GILL, J.

Prayer in this appeal is for setting aside order dated 04.02.2023, passed by learned Principal Judge, Family Court, Narnaul whereby petition under Sections 7, 8, 9, 10 and 12 of Guardianship and Wards Act, 1890 (hereinafter referred to as the G & W Act), filed by respondent-husband was allowed and he was appointed as guardian of minor child namely Ishika. Appellant-wife has been directed to hand over custody of minor child to the husband within one month from passing of said order.

Petition under Sections 7, 8, 9, 10 and 12 of the G & W Act was filed by the respondent-husband on 13.10.2021. It is not denied that the appellant had put in appearance before the learned Family Court, Narnaul but thereafter, failed to contest the petition. No reply whatsoever was filed by the appellant and she was ultimately proceeded *ex-parte* on 18.08.2022. Above said petition was allowed by learned Family Court on 04.02.2023. Aggrieved therefrom appellant has filed this appeal.

Learned counsel for the appellant contends that appellant was proceeded *ex-parte* before the learned Family Court for no fault of hers. It is submitted that appellant was told by her counsel that as and when her

presence is required, she would be informed, however she was never informed of any action to be taken by her counsel. Learned counsel states that the application under Section 125 Cr.P.C., filed by appellant was also dismissed in default. Though no details about how appellant came to know of passing of the impugned order are forthcoming, learned counsel asserts that it is only now that appellant has come to know about dismissal of her application under Section 125 Cr.P.C. on 22.11.2022 as well as about the present impugned order dated 04.02.2023. Learned counsel further submits that appellant is in fact ready and willing to reconcile all her differences with the respondent-husband and resume matrimonial ties. Furthermore, final examinations of minor child are going on, therefore, manifest injustice shall be caused in case impugned order dated 04.02.2023 is implemented.

We have heard learned counsel for the appellant and have gone through the file.

Admittedly, appellant was proceeded *ex-parte* and she has an efficacious remedy of filing appropriate application before the learned Family Court itself in this regard. At this stage, this appeal is disposed of with liberty to the appellant to approach the learned Family Court, Narnaul for seeking appropriate relief including any interim relief, while taking up all the pleas available to her in accordance with law.

It is clarified that there is no expression of opinion on the merits of the case.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

28.02.2023

Sunil

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