

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 3699 of 2022(O&M)

Date of Decision:03.03.2023

Sumittar Kumar and another

.....Appellant

Versus

Sohan Lal and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Rajinder Kumar Singla, Advocate
for the appellant.

LISA GILL, J(Oral).

Appellants i.e., father and grandmother, respectively of the minor child have filed this appeal challenging judgment and decree dated 23.03.2022, passed by the learned Family Court, Hoshiarpur, to the extent that visitation rights have been provided to the respondents (maternal grandparents of the child), while dismissing said respondent's petition under Section 25 of the Guardians and Wards Act, 1890 (for short 'the Act').

Brief facts necessary for adjudication of the matter are that petition under Section 25 of the Act, was filed by the respondents seeking custody of the minor child born on 26.01.2014 to their daughter and her husband i.e., appellant no.1. It is averred in the petition that marriage of daughter of present respondents was solemnized with appellant no.1 according to Hindu Rites on 08.03.2013. It is averred that their daughter was not treated properly in the matrimonial home even though she discharged all obligations of a dutiful wife. Maltreatment of their daughter without caring for her pregnancy etc., is alleged. Mental and physical health of their daughter, it is further stated deteriorated and she was ultimately brought to

Hoshiarpur for proper treatment and admitted at Shivam Hospital on 01.09.2016, from where she was shifted to PGI, Chandigarh on 22.09.2016. Minor child born on 26.01.2014, is stated to have remained in custody of the maternal grandparents with the present appellants never making any effort whatsoever to find out about their well being. Daughter of the present respondents ultimately died on 29.09.2016 at PGI, Chandigarh. It is averred that no condolences were offered by the present appellants, but they cleverly removed the minor child from custody of the maternal grandparents by obtaining their signatures on documents at a stage when they were mourning the death of their daughter and were clearly in a state of shock. It is further stated that appellant no.1 remarried and is serving at a place out of country. Therefore, he was not able to give proper love, care and affection to the minor child, who is stated to be neglected. It was further averred that maternal grandparents are in a position to look after the child with all due care required. Maternal grandfather, is stated to be a retired personnel, receiving pension and that their unmarried daughter is a teacher.

Present appellants (respondents before the learned Family Court) contested the petition while stating that appellant no.1 was the father and natural guardian while appellant no.2 is the paternal grandmother of the minor child. Reliance was placed upon compromise dated 11.10.2016, Annexure RW-1/B, stated to have been arrived at between the parties, wherein responsibility of bringing up the child, has been accepted to be that of appellant no.1.

Learned Family Court, Hoshiarpur, on considering evidence on record, facts and circumstances of the case, concluded that it was not in the interest or for welfare of the child that custody be given to maternal grandparents. It is observed that death of daughter of respondents took place

on 29.09.2016, but petition was filed only on 06.11.2017. Moreover, father being natural guardian, was found to be entitled to custody of minor child and that no evidence had been led to indicate any disqualification being incurred by him to continue with custody of the minor child.

While dismissing petition under Section 25 of the Act, filed by respondents, it is however observed by the learned Family Court that maternal grandparents are entitled to adequate opportunity to meet minor child and spend time. Therefore, they have been allowed visitation rights qua the child, whereby they can meet the child once a month, at a time and place which is convenient and suitable for the child, but not at the house of present appellants. It is further directed that they would allow interaction without any person accompanying the child. Period of meeting, it is ordered can extend from minimum three hours to full day depending upon convenience of child and maternal grandparents.

Present appeal has been filed by father and paternal grandmother of minor child, challenging grant of visitation rights to maternal grandparents.

We have heard learned counsel for the appellants and have gone through the file with his able assistance.

Learned counsel for the appellants is unable to point out any ground whatsoever which calls for setting aside grant of visitation rights to maternal grandparents. It is not denied that respondents are indeed the maternal grandparents of minor child. They unfortunately lost their daughter in September 2016. In the given factual matrix, they are indeed entitled to interact with the minor child and spend time with him. Minor child is also entitled to love and affection of maternal grandparents.

Learned counsel for the appellants is unable to point out any irregularity, infirmity or perversity in impugned judgment and decree dated 23.03.2022, passed by the learned Family Court, Hoshiarpur, granting visitation rights to grandparents.

No other argument has been raised.

Appeal is accordingly dismissed.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

March 03, 2023.
s.khan

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