

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-8696-2023

Date of Decision :- 05.09.2023

Neero Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Parveen Kumar, Advocate
for the petitioner.

SUVIR SEHGAL, J. (ORAL)

1. By way of present writ petition filed under Article 226 of the Constitution of India, petitioner has approached this Court for issuance of a writ in the nature of habeas corpus to release the minor child from the custody of respondents No.5 to 7 and to locate the detenue at premises of residential house of respondents 5 to 7 i.e. village Chopri, Tehsil Nilokheri, District Karnal.

2. While placing reliance upon the judgment of the Supreme Court in **Yashita Sahu Versus State of Rajasthan and others, 2020(3) SCC 67**, counsel has urged that a writ of habeas corpus is maintainable to recover the custody of a child, who has been detained, by the other parent.

3. I have considered the submissions made by counsel for the petitioner.
4. Concededly, respondent No.5 is the father of the 8 ½ years old child. There is nothing on the record to show that minor child is in the illegal custody of respondent No.5. Allegations levelled in the petition are that the petitioner was forced to leave the matrimonial home but there is no allegation that respondent No.5 or any of the private respondents have forcibly detained the child. Although there is no dispute about the maintainability of the petition, however, in the absence of any material in support of the allegations, present petition cannot be entertained.
5. Petition is dismissed. Liberty is granted to the petitioner to avail the remedy available to her in accordance with law to seek the custody of the child, if so advised.

05.09.2023
Brij

(SUVIR SEHGAL)
JUDGE

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