

136 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5536-2023
DECIDED ON: 20.09.2023

TANIA PANDHER

.....PETITIONER

VERSUS

JASJEET SINGH DHILLON

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. Preetinder Singh Ahluwalia, Advocate and
Mr. Jagatvir Dhindsa, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

1. The present revision petition, preferred under Article 227 of the Constitution of India seeks the issuance of directions to the Family Court, Ludhiana to decide petition bearing number GW/176/2021 (Annexure P-1) instituted by the petitioner under Section 25 of the Guardian and Wards Act, 1980 read with Section 6 of the Hindu Minority and Guardianship Act, 1956 for the grant of custody of her minor daughter-Mahreen Kaur Dhillon in a time bound manner.

2. The crux of the voluminous case file is that the parties to the *lis* namely the petitioner and the respondent are a couple involved in litigation with regard to the custody of their minor daughter who, at present, is stated to be with the respondent. The marriage of the parties was solemnized on 07.12.2014 at Ludhiana. As per the petition, before the marriage itself, differences started cropping up between them with regard to alleged demands having been raised by the respondent side. After marriage, details of the demands having been raised by the respondent side have been averred in the petition, which are not relevant for the purposes of the present dispute. An FIR

bearing number 59 also came to be registered on 29.02.2019 against the respondent and his mother under Sections 406 and 498-A IPC at Police Station Women Cell, District Ludhiana.

3. The petitioner instituted a petition on 20.12.2021 under Section 25 of the Guardian and Wards Act, 1980 read with Section 6 of the Hindu Minority and Guardianship Act, 1956 seeking the custody of the minor child who, at the time of filing of the petition, was approximately three years old. The petition is on record as Annexure P-1. Alongwith the petition, an application (Annexure P-2) for the grant of interim custody of the minor daughter was also moved. The sole prayer in the present revision petition is that directions be issued to the Family Court, Ludhiana to decide the petition or at least the application for interim custody within a fixed time frame. Reference has been made to an earlier order passed by this Court on 30.05.2023 in CR-3363-2023 moved by the present petitioner seeking the same directions wherein a Co-ordinate Bench of this Court had disposed of the revision petition observing that the Family Court would be expected to make every effort to dispose of at least the application for interim custody at the earliest possible.

4. I have heard learned counsel for the petitioner.

5. Learned counsel for the petitioner has strenuously urged that the respondent is deliberately making attempts to delay the disposal of the main petition as also the application of interim custody. It has been submitted that the reason behind the deliberate attempts to delay the decision is that the date of birth of the minor daughter is 09.11.2018 and she will attain the age of five years on 09.11.2023, after which the respondent may raise a plea that the mother has no preferential right over the custody of the minor. Learned counsel has taken this Court through the various interlocutory orders on

record to support his argument.

6. I have considered the submissions made by learned counsel for the petitioner.

7. It is no secret that Courts are over-burdened with a huge number of cases. Thousands of cases are pending in each Court. Cause lists have become unmanageable. All Courts normally would do their best to dispose of cases in a time bound manner. The sheer volume of course is a huge hurdle. To issue directions to a particular Court for time bound disposal of a case would not normally be the remedy because each case is equally important. However, where it is found that one party is making attempts to deliberately delay the disposal of the case, such directions can be and should be issued. Whether such directions are required to be issued in the present case is to be seen.

8. Admittedly, the petition by the wife was filed on 20.12.2021. It was accompanied by an application for the grant of interim custody of the minor girl child. The paper book shows that the respondent put in appearance before the Family Court, Ludhiana on 18.04.2022. Reply to the application for interim custody was filed on 10.05.2022. Efforts for reconciliation were also made but did not mature. Pleadings were completed till 09.08.2022. As far back as on 09.08.2022, the case was fixed for 13.09.2022 for consideration on the application for interim custody. On 01.10.2022, part arguments in the said application were heard. Some further arguments were heard on 01.11.2022. On 17.01.2023, the attention of the Family Court was again drawn towards the pendency of the application for interim custody. Subsequently, an application under Order 7 Rule 11 CPC appears to have been filed by the respondent. The matter then remained pending for arguments on the said application.

9. In the meantime, the petitioner approached this Court by way of a

revision petition in **CR-3363-2023** titled as '**Tania Pandher Vs. Jasjeet Singh Dhillon**' which was disposed on 30.05.2023 by a Coordinate bench and the following order was passed.

"1. The petitioner has filed this petition under Article 227 of the Constitution of India, for issuance of the direction to the Family Court, Ludhiana to decide petition No.GW/176/2021 instituted on 21.12.2021 by the petitioner under Section 25 of the Guardian and Wards Act, 1980 read with Section 6 of the Hindu Minority and Guardianship Act, 1956 (Annexure P-2) for grant of custody of minor daughter; along with certain other prayers.

2. The counsel for the petitioner submits that he is not pressing this petition.

3. Dismissed as not pressed.

4. However, it is expected that the family court would make every effort to dispose of, at least, application for interim custody at the earliest possible."

10. Even thereafter, the matter remained pending for a number of dates for arguments on the application under Order 7 Rule 11 CPC and no efforts could, therefore, be made to hear and decide the application for interim custody of the child. The last order on record is order dated 06.09.2023 vide which the case was adjourned to 22.09.2023 for remaining arguments on application under Order 7 Rule 11 CPC after the same having been heard in part on 06.09.2023. The apprehension expressed by learned counsel for the petitioner that the matter is being delayed deliberately by the respondent to await the girl child attaining the age of five years does not, therefore, appear to be unfounded. Such applications for interim custody should be dealt with utmost urgency especially where the child is of such a small age. No doubt, the application under Order 7 Rule 11 CPC will have to be decided first.

However, part arguments have already been heard in the said application and the case is now fixed for 22.09.2023 for remaining arguments in the said application.

Considering the facts and circumstances of the case as have been detailed in the preceding paragraphs, the present revision petition is disposed of with a direction to the Family Court, Ludhiana to hear and decide the application for interim custody of the child latest by 31.10.2023. The application under Order 7 Rule 11 CPC and after its decision, the application for interim custody may be heard and decided on day to day basis, if so required.

(VIKRAM AGGARWAL)
JUDGE

20.09.2023

Prince Chawla

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