

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.640 of 2017

=====

Bishwajit Kumar Singh S/o Azad Chandra Sekhar Prasad Singh, R/o Hol.No.-
83, Indira Path Sukla Colony, Hinoo, P.S.- Doranda, Distt.- Ranchi.

... .. Appellant/s

Versus

Kameshwar Prasad Singh S/o Ram Janam Singh, R/o Bank Colony,
Chandauti More, P.S.- Medical College, Distt- Gaya.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Rajeev Kumar, Adv.

For the Respondent/s : Mr.Jai Kishor Poddar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY)

Date : 23-04-2024

The present appeal has been filed against the judgment dated 04.04.2017 passed in Guardianship and Wards Case No. 02 of 2013 by the learned Principal Judge, Family Court, Gaya whereby and whereunder the custody of the minor daughter of appellant, namely, Kumari Jiya has been handed over to opposite party, who is maternal grandfather of minor.

2. Briefly stated the facts of the present case is that the appellant's marriage was solemnized on 01.05.2001 with late Mamta Singh, daughter of Kameshwar Prasad Singh (respondent) according to Hindu Rites and Customs. After solemnization of marriage, the appellant was blessed with one



child, namely, Kumari Jiya on 05.09.2004. During subsisting of the marriage the relation among the appellant and his late wife was strained. It is claimed that wife of appellant went to Gaya in the year 2005 at the behest of respondent and since then she did not want to reside with the appellant and his parents at Ranchi, despite that appellant used to visit her at her residence. It is reliably learnt that on 08.06.2009 at 10:00 AM, a telephonic message was received by the father of the appellant that appellant's wife Mamta Singh died, leaving her minor child and the appellant being father and natural guardian wanted to keep the custody of the minor child keeping in view the welfare of minor child. It is further alleged that appellant had earlier filed Guardianship Case No. 69 of 2009 in the Family Court at Ranchi which was disposed of on 21.03.2013 on the ground that Family Court at Ranchi has no jurisdiction to entertain the said case. Thereafter, the appellant filed Guardianship and Wards Case No. 02 of 2013 before the Principal Judge, Family Court, Gaya seeking the following relief(s):-

(a) That the court may be pleased to appoint the appellant as guardian of his minor daughter namely Jiya aged about five years.



(b) That the court be further pleased to direct the respondent to hand over the custody of the child to the appellant as appointed guardian.

(c) That the cost of suit be awarded.

(d) That any other consequential relief/ reliefs which the appellant is entitle to be rewarded.

3. The concerned Family Court dismissed the case of appellant and allowed the respondent to retain custody of the minor child, namely Jiya till she attains majority. Being aggrieved by the said judgment dated 04.04.2017, the appellant has filed the present appeal.

4. Presently, the age of girl is stated to be more than 19 years.

5. In the present appeal, both parties were directed to appear before the Patna High Court Mediation Centre, Patna along with the minor girl for the purpose of amicable settlement, if any. The mediator's report signifies that dispute between the parties has been resolved through the process of mediation. The terms of settlement mutually agreed upon by them is attached with the mediator's report (Flag-X) which reads as under:-



The appellant Mr. Bishwajit Kumar Singh had filed a Miscellaneous Appeal against the order of the Court below whereby the custody of his daughter who was being raised by her maternal grandfather after the death of petitioner wife had been denied.

The child is a major on this date. The respondent Mr. Kameshwar Prasad Singh, the maternal grandfather of child has no objection in sharing the address and mobile number of child who is studying in Delhi with the Appellant and is open about the Appellant meeting his child.

The Appellant on the other hand being a father of child is willing to take care of child and meet her financial expenses and take care of her safety and well being. Also he volunteers to pay back the loan amount of Rs. 4,00,000/- (Rupees Four Lakh) taken by the Respondent for child education.

That the aforesaid contents of the agreement have been read over and explained into Hindi, which have fully been understood and accepted by the parties.

Hence, in the above terms and condition a settlement has been arrived between the parties and both have signed his presence of their respective learned counsels, who have also put their signature on the agreement.



6. In the light of aforesaid terms of settlement between the parties, judgment dated 04.04.2017 passed in Guardianship and Wards Case No. 02 of 2013 by the learned Principal Judge, Family Court, Gaya is, hereby, set aside.

7. Accordingly, the present miscellaneous appeal stands disposed of in terms of settlement arrived between the parties.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	10.04.2024
Uploading Date	23.04.2024
Transmission Date	23.04.2024

