

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
124

CR-2166-2024 xx

Date of decision: 10.04.2024

Pinky Rani

.....PETITIONER

Versus

Om Parkash and another

.....RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Daljeet Singh Virk, Advocate,
for the petitioner.

RITU TAGORE, J. (ORAL)

1. This revision petition has been filed by the petitioner with a prayer to direct the learned Principal Judge, Family Court, Mansa, to decide the stay application dated 05.04.2024 filed under section 151CPC along with an application dated 05.04.2024 (Annexure P-3) filed under Order 9 Rule 13 CPC for setting aside the *ex-parte* judgment and decree dated 21.03.2024 (Annexure P-2), passed by the learned Principal Judge, Family Court, Mansa under Section 6 of the Hindu Minority and Guardianship Act, 1956 (hereinafter referred to as '1956 Act') for the custody of minor child.

2. Heard. Paper-book perused with the assistance of the learned counsel for the petitioner.

3. Learned counsel for the petitioner argues that the petitioner is the mother of a minor child, who is presently lodged in District Jail, Mansa in FIR NO. 0210 dated 09.11.2023 under Section 302 IPC, registered at P.S. Boha, District Mansa. At the time of petitioner's arrest, her minor child aged 5 years was also taken to the jail and remained with her in jail. It is stated

that while petitioner remained incarcerated, respondents No. 1 and 2 filed a petition under Section 6 of the 1956 Act for the custody of the minor child and obtained *ex-parte* judgment dated 21.03.2024 (Annexure P-2) against her, and also obtained the custody of her minor child on the basis of the said judgment.

4. Learned counsel submits that on coming to know about the passing of the *ex-parte* judgment dated 21.03.2024 (Annexure P-2), the petitioner moved an application under Order 9 Rule 13 CPC along with stay application to restrain the Superintendent, District Jail, Mansa for handing over the custody of the minor child to respondents No. 1 and 2 (Annexures P-3 and P-4).

5. It is contended by learned counsel for the petitioner that the Superintendent, District Jail, Mansa handed over the custody of the minor child to respondents No. 1 and 2 without a warrant from the learned Family Court or pursuant to any order passed in execution. An indulgence is requested for the issuance of necessary directions to learned Family Court, Mansa for expeditiously disposing of the applications moved by the petitioner, given the circumstances.

6. It is matter of record that the application under Order 9 Rule 13 CPC, to set aside an *ex-parte* judgment dated 21.03.2024 (Annexure P-2) along with stay application, moved by the petitioner, who is currently incarcerated in District Jail, Mansa, in a criminal case, is pending before the learned Principal Judge, Family Court, Mansa.

7. Perusal of the paper-book further indicates that proceedings are going on before the learned Family Court, Mansa. Therefore, at this stage, no ground is made out to warrant any special directions to the learned Trial

Court to decide the matter in a time bound manner. However, this Court is sanguine that learned Trial Court shall make sincere endeavour to dispose of the applications expeditiously, considering the sensitive nature of the matter, as it involves a child custody case. Needless to mention, parties to the suit shall assist the Court in expeditious disposal of the case.

- 8. Petition stands disposed of accordingly.
- 9. Pending applications, if any, stand disposed of.

April 10, 2024
pj

(RITU TAGORE)
JUDGE

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