



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

113

FAO-2904-2024 (O&M)
Date of Decision: 06.08.2024

Gokul Sohal

..... Appellant

Versus

Priya

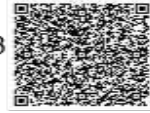
..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Prateek Sodhi, Advocate,
for the appellant.

SURESHWAR THAKUR, J. (ORAL)

1. The respondent in the instant appeal instituted a petition under Section 8/25 of Guardians & Wards Act, 1890, whereby she asked relief qua awarding of custody of infant, namely Hardik Sohal, aged about three months, to her from the present appellant.
2. The said infant was born from the marital ties entered into *inter se* the appellant and the respondent in the instant appeal. Though the claim as made for the interim custody of the infant (*supra*) by his mother, became rested on the ground that since the infant is milk suckling therebys interim



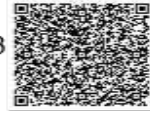
custody of the infant requires to be retrieved from the present appellant to his mother.

3. On the application (supra), the learned Family Court made certain directions, which become carried in the operative part of the impugned order, operative part whereof becomes carried in Paragraphs 14 of the impugned order, and the same becomes extracted hereinafter :

“14. So, keeping in view the above discussed law, I find that the temporary custody of child Hardik is required to be given to the applicant mother. Applicant and the child Hardik shall reside at her parent address mentioned in the petition. Respondent shall handover the custody of the child to the applicant within a period of one week and respondent/father shall have the right to visit the child on every Wednesday between 4 PM to 6 PM and Sunday between 4 PM to 6 PM at the parental house of the applicant and he will do so without creating any disturbance at the parental house of applicant. Accordingly, this application for grant of interim custody of the minor child stands allowed and out of the pleadings of the parties, following issues are framed :-

- 1. Whether petitioner is entitled to custody of minor child Hardik?OPP*
- 2. Whether petitioner is estopped by her own act and conduct from filing the present petition ?OPR*
- 3. Whether petition is bad for concealment of facts ? OPR*
- 4. Relief.”*

4. A reading of the above extracted paragraph as carried in the impugned order, discloses that the learned Family Court after allowing the



application (supra) had passed a direction over the respondent (in the said petition) to hand over the custody of the infant to the applicant (in the said petition) within a period of one week. Moreover, the respondent (in the said petition), who is the appellant in the instant appeal, was bestowed with the rights to make visits upon the infant, on every Wednesday between 4 PM to 6 PM and Sunday between 4 PM to 6 PM, at the parental house of the applicant therein, and further with a direction that he shall not create any disturbance at the parental house of the applicant therein, whenever he interacts with the infant.

5. Though the above order is merit worthy and is also ingrained with a profound and insightful wisdom, but yet the said order has been challenged. The challenge as made to the said order, is devoid of any merit as an infant who is but a milk suckling child, and thereby rather requires being breast fed by his mother, who is his natural guardian, whereby the order challenged before this Court, thus does not merit any interference. Therefore, it appears that under the garb of the challenge as made to the impugned order, the present appellant is intending not to comply with the direction made therein, to retrieve the custody of the infant to his mother, whereby there is but deprivation of bestowment of love and affection upon him by his mother, besides there is complete deprivation of his being breast fed by his mother.

6. In consequence, this appeal is dismissed with costs of Rs. 25,000/- to be forthwith deposited with the Punjab and Haryana High



Court, Bar Clerks' Association. The present appellant is directed to, if he has not complied with the above order, to ensure qua compliance thereto becoming meted, thus within a week thereafter.

7. All pending applications, if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

06.08.2024
Satyawar

- 1. Whether speaking/reasoned: Yes/No
- 2. Whether reportable: Yes/No