

2024:PHHC:127507



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRWP-9117-2024 (O&M)
Date of decision: 25.09.2024

Latesh Mehta and another**...Petitioners****Versus****State of Haryana and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Lupil Gupta, Advocate
for the petitioners.

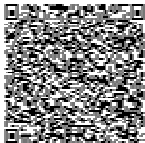
Mr. Neeraj Poswal, AAG, Haryana.

Mr. Saurabh Sabharwal, Advocate
for respondent No. 4.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Article 226/227 of the Constitution of India read with Section 528 of BNSS, 2023, is for appointing a warrant officer to get the minor son of petitioner No.1 released from the custody of respondent No.4, who is wife of petitioner No.1.
2. Upon notice, respondent No. 4 along with the minor child and her counsel is present in Court. As per respondent No. 4, the age of the minor child is about 01 year and 03 months, which has not been disputed by the petitioners. The petitioners have prayed for referring the matter to Mediation and Conciliation Centre of this Court but respondent No. 4 has refused to participate in any kind of mediation proceedings. However, on the asking of Court, the parties had a brief dialogue with each other in the presence of their counsel but no amicable settlement could be arrived at between them.

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3.

Since, admittedly respondent No. 4 is the mother of the minor child, his custody with her cannot be stated to be illegal at all. More so, since as per Section 6 of the Hindu Minority and Guardianship Act, 1956, the custody of a child under the age of 05 years shall ordinarily be with the mother, no direction can be issued to respondent No. 4, as prayed for by the petitioners.
4.

Accordingly, finding no merit in the present petition, the same is dismissed.

25.09.2024

(MANISHA BATRA)
JUDGE

Waseem Ansari

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