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

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Date of Decision:- 12.08.2024

Rajni

....Petitioner

Vs.

State of Haryana and Ors.

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Gaurav Gaur, Advocate for petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. C.K. Singhaal, Advocate for respondents No. 4 to 6.

AMARJOT BHATTI, J.

1. Petitioner Rajni has filed present petition under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus directing respondent No.3 to produce detainee Vihaan son of petitioner who is in unlawful and illegal custody of respondent No.4 on instructions of respondents No.5 and 6 or any other direction which the Court may deem fit.

2. Learned counsel for petitioner argued that petitioner is mother of detainee Vihaan. Respondent No.4 is the sister-in-law of petitioner and respondents No.5 & 6 are father-in-law and mother-in-law of petitioner. Petitioner got married with Virender on 13.11.2017 and out of this wedlock son Vihaan was born on 13.08.2020. Unfortunately husband of petitioner expired on 12.10.2021 due to illness. Copy of death certificate is Annexure P-2. After the death of her husband behaviour of respondents No.4 to 6

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changed towards her. Her parents convened a panchayat and respondents No.4 to 6 assured that they will not behave in this manner and will maintain the child. Petitioner shifted to her parental house and family members took away the son of petitioner and now she is not permitted to meet her son. Petitioner has come to know that custody of her child is given to respondent No.4 by respondents No.5 and 6 without her permission. She had filed a petition under Section 25 of Guardians and Wards Act before Family Court, Yamuna Nagar which was dismissed as withdrawn on 12.11.2022. Finally present petition has been filed. Learned counsel for petitioner further argued that custody of minor son of petitioner be handed over to her by respondents No.4 to 6.

3. During the pendency of present petition, petitioner was permitted to meet her child as per order dated 17.10.2023. Respondents No.4 to 6 also filed their written reply that petitioner herself gave custody of the child to her in-laws i.e. respondents No.5 and 6 with her free consent on 30.01.2022 and left the matrimonial home. Thereafter, she never returned to the matrimonial home. A compromise was written regarding custody of the child which was duly signed by the petitioner. Respondents No.5 and 6 are grandparents of minor child and the child is not in their illegal custody. Petitioner had filed a petition under Section 25 of Guardians and Wards Act before Family Court, Yamuna Nagar which was withdrawn by her. Therefore, petitioner is not entitled to any relief.

4. Status report is also filed by learned counsel representing State. Statements of respondents No.4 to 6 were recorded which are Annexure R-1 and R-3. Compromise arrived at with the intervention of Panchayat

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dated 30.01.2022 is placed on record as Annexure R-4. Respondents No.5 and 6 due to their old age were not keeping good health and for this reason they had given custody of minor child Vihaan aged two years to their daughter Suman-respondent No.4. As per status report, allegations levelled by petitioner were found to be false.

5. I have considered the facts and arguments advanced before me. Petitioner claimed that respondents No.5 and 6 forcibly took away her son and she was not permitted to meet her child. She further alleged that respondents No.5 and 6 who are grandparents of the child have given custody of child to respondent No.4 without her permission. It is not disputed that petitioner is mother of child namely Vihaan. She lost her husband on 12.10.2021 and thereafter shifted to her parental house. In the petition she has not mentioned the date or the place from where the child was forcibly taken away by respondents No.5 and 6. On the other hand, respondents No.4 to 6 in their reply categorically stated that they were given custody of the child by petitioner with her free consent on 30.01.2022 and she left the matrimonial home and never returned back. This fact is also confirmed in the status report filed by learned counsel representing the State. One compromise dated 30.01.2022 is also placed on record as Annexure P-4 along with vernacular duly signed by respectables from both sides including present petitioner Rajni. It is further not disputed that she had filed a petition under Section 25 of Guardians and Wards Act before Family Court, Yamuna Nagar and without explaining any reason the same was dismissed as withdrawn on 12.11.2022.

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6. Considering the aforesaid factual position, at this stage, I do not find appropriate to issue any direction by way of writ in the nature of habeas corpus for handing over the custody of minor child to the petitioner and the petition is accordingly disposed of. However, petitioner is at liberty to avail legal remedy available to her seeking custody of child as per law.
7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

12.08.2024

Sunil Devi

(AMARJOT BHATTI)
JUDGE

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