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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 05th April, 2024***

+ **W.P.(CRL) 945/2024**

RAVISH BENIWAL

..... Petitioner

Through: Mr. Ashok Kr. Chhikara, Ms. Shobha
and Mr. Depanshu Dabas, Advocates
with petitioner in person

versus

THE STATE NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Mr. Priyam Agarwal, Mr.
Abhinav Krumar Arya, Mr. Shivesh
Kaushik, Advocates, Insp.
Pushpender and ASI Ram Dayal
Mr. Kushal Narula, Advocate for R-5
with R-5 and his grand-daughter in
person

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The present petition has been preferred by the petitioner under Article 226 of the Constitution of India seeking issuance of a writ in the nature of Habeas Corpus directing the respondent Nos.2 & 3 to produce daughter of the petitioner from the custody of respondent Nos.4 & 5.
2. Petitioner got married to respondent No.4 on 31.01.2009 and out of the said wedlock, a baby girl was born. Thereafter, in June, 2018, respondent No.4 and their daughter wilfully left the matrimonial home. The petitioner got to know that on 12.01.2024, the respondent No.4 has absconded with



one Himanshu Goyal leaving behind her daughter for which a complaint vide DD No.107 dated 13.01.2024 has been lodged at Police Station Palam Village by respondent No.5 who is father of the wife of the petitioner. The petitioner has no information about whereabouts of his daughter since 16.02.2024. Hence, the present petition has been filed.

3. Pursuant to order dated 21.03.2024, the daughter of petitioner Tarusha along with her grand-father, i.e. respondent No.5, is produced in Court today. Such daughter submits that she was born on 28.02.2024 and presently studying in 10th Standard in Kendriya Vidyalaya at New Delhi. She further submits that in the month of June, 2018, she and her mother left the house of petitioner and thereafter, they have been continuously staying with her grand-parents (*nana -nani*). She also submitted that her father used to use abusive language against her mother.

4. When this Court specifically asked the daughter of the petitioner with whom she would like to stay, she replied that she wishes to continue stay with her grand-parents (*nana -nani*).

5. Learned counsel for petitioner submits that the wife of the petitioner filed a petition under PWDV Act against the petitioner before learned Mahila Court and in the said petition, the petitioner herein filed an application seeking visitation rights. However, such application has been dismissed vide order dated 24.02.2024.

6. Learned counsel for petitioner further submits that the daughter of the petitioner, before leaving the company of the petitioner, was studying in G.D. Goenka School, Rohini, Delhi and now, she is studying in Kendriya Vidyalaya. It is further submitted that *mama-mami* of the daughter of the petitioner are staying separately from her grand-parents (*nana-nani*) and



moreover, the grand-parents are aged and not able to take proper care of the daughter of the petitioner.

7. Respondent No.5/grand-father (*nana*) of the daughter of the petitioner is present in Court and submits that he retired from Airport Authority of India as Senior Superintendent on 28.02.2014. He further submits that he has received an amount of Rs.1 crore towards retiral benefits which has been invested by him in property and in Fixed Deposit and apart from this, he has 4 acres of land and sufficient means to take care of his grand-daughter.

8. This petition is for issuance of a writ in the nature of habeas corpus, however, the daughter of the petitioner is not in illegal custody of her grand-parents. The issue in the present petition is arising out of matrimonial disputes. Thus, the present petition does not call for any interference from us.

9. In view of above, the present petition is disposed. However, the petitioner is at liberty to approach Family Court seeking custody or visitation rights of his daughter, as per law.

10. We also direct that any such application seeking visitation or custody of daughter of the petitioner is filed by the petitioner before Family Court, it be decided expeditiously.

11. The writ petition stands disposed of in aforesaid terms.

(SURESH KUMAR KAIT)
JUDGE

(MANOJ JAIN)
JUDGE

APRIL 5, 2024/rk