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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of decision: 03rd May, 2024**

+ W.P.(CRL) 1385/2024
SUNIL KUMAR VOHRA Petitioner

Through: Mr. L K Passi with Dr. K C Rakesh,
Mr. Madan Lal Kalkal, Advocates.

versus

STATE GOVT OF NCT OF DELHI AND OTHERS Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Ms. Priyam Agarwal, Mr.
Abhinav Kumar Arya, Mr. Shivesh
Kaushik, Advocates, SI Anil Dahiya.

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 filed by the petitioner seeking following prayer:-

“a) direct the Respondents No.2 and 3 to immediately release the custody of the minor child to the Petitioner/father from their illegal detention in the interest of justice;”

2. Issue notice. Learned Standing Counsel for the State accepts notice on behalf of the State and has produced the Status Report dated 03.05.2024. The same is taken on record.

3. It is not in dispute that the petitioner and Smt. Shradha Gaur got married to each other on 16.02.2015 according to Hindu rites and customs, and thereafter they started residing at their matrimonial home situated in



Rohini. Out of the said wedlock, a male child was born on 11.09.2016. Thereafter, they lived together upto 20.10.2017. However, during this period, the relationship between them remained estranged due to temperamental differences and for that reason, the wife of the petitioner left her matrimonial house on 20.10.2017 alongwith their minor son.

4. It is also not in dispute that the wife of the petitioner expired on 09.10.2022 at her mother's house and since then the minor child has been living with her maternal aunt in Noida.

5. The petitioner admits that he had not filed any petition seeking custody of his minor son either during the lifetime of his wife or subsequent to her death. Thus for last more than 6 years, he never even bothered to seek custody of his son.

6. The child of the petitioner is being taken care of by his sister-in-law (sister of his wife) and she has already filed a petition under Guardians and Wards Act. The same has not been disputed by the learned counsel for the petitioner who informs that petitioner is already contesting the same.

7. Viewed thus, there is nothing to suggest that the custody of child with his aunt (Mausi) is illegal or unlawful and, therefore, there is no reason or occasion to file habeas corpus.

8. The present petition has, thus, no merit or substance.



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9. Needless to say, petitioner is at liberty to contest the guardianship petition filed by his sister-in-law (sister of his wife) or to file any petition seeking custody before the appropriate Court in accordance with law.

10. The petition stands disposed of in aforesaid terms.

(SURESH KUMAR KAIT)

JUDGE

(MANOJ JAIN)

JUDGE

MAY 03, 2024/sw