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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2983/2024**

MEDHA SINHA

.....Petitioner

Through: Ms. Harshita Gulati, Mr. Sagar Dawar,
Mr. Anurag Malik & Mr. Jitender
Kumar Singh, Advs. along with the
Petitioner.

versus

STATE GOVT. OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Ms. Priyam Aggarwal &
Mr. Abhinav Arya, Advs.
Ms. Divya Upadhyay, Mr. Sudhir
Kumar, Mr. Shailesh K. Yadav, Mr.
Litesh Batra & Ms. Tusharika Sharma,
Advs. for R-4 & 5 (M-8076086377)
along with R-4 & 5 present in person.
SI Kavish Rana & Inspr. Vijender
Singh Nagar

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

% **25.09.2024**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed on behalf of the Petitioner-Medha Sinha under Article 226 of the Constitution of India seeking issuance of a writ of *habeas corpus* for production of her child, who is alleged to be in illegal detention of the Petitioner's mother and her brother.
3. A brief background of the present case is that the Petitioner was married to one Mr. Praveen Kumar on 3rd November, 2014. From the said wedlock, a child was born on 25th December, 2015. However, due to some matrimonial disputes, the Petitioner and her husband started living separately since 2nd



November, 2020. The Petitioner says she was living in her parent's house at I-171, Lalita Park, Gali No. 13, Lakshmi Nagar, Delhi-110092 along with her child.

4. It is further stated that the Petitioner had some differences with Respondent No. 4-Krishna and Respondent No. 5-Nishant Kumar Sinha who are the mother and brother of the Petitioner respectively. In view of the said family disputes, the Petitioner's father shifted to D40, Phase 1, Pocket-4, Mayur Apartment, Mayur Vihar, Delhi along with Respondent Nos. 4 and 5. The Petitioner started living alone with her child at I-171, Lalita Park, Gali No. 13, Lakshmi Nagar, Delhi-110092.

5. It is alleged by the Petitioner that on 18th August, 2024 the Respondent No. 5 had beaten the Petitioner in the presence of Respondent No. 4 and subsequently took the child of the Petitioner. Further, on 19th August, 2024 the Petitioner filed a police complaint in P.S. Lakshmi Nagar, however, no action has been taken. Hence, the present petition.

6. The Id. Standing Counsel has filed a status report today. As per the said status report, the Petitioner had visited P.S., Laxmi Nagar and filed a complaint that her mother had taken away her child and further, had refused to return the child. In furtherance of the same, the concerned Sub-Inspector (SI) had taken steps to contact the Petitioner's mother. Upon establishing contact with the Petitioner's mother, the SI was informed that some quarrel had taken place on 16th August, 2024 between the Petitioner and her family, pursuant to which, the brother and mother of the Petitioner had taken the child with them for various reasons.

7. The concerned SI then directed the Petitioner's mother to bring the child to the Child Welfare Committee (CWC). The diary entry was lodged



and the child was also produced before the CWC, Mayur Vihar. The Petitioner however, despite being informed, did not appear before the CWC and thus did not join the proceedings.

8. The CWC then passed a detailed order dated 21st August, 2024 recording the circumstances in which the child had been taken away from the Petitioner. The CWC in the said order has also recorded that currently, the child is living on his own with his *Nani* and there is no coercion by the *Nani*. The CWC also came to the conclusion that the child is comfortable in the *Nani's* house. The child is currently studying at R.S. Public School in 4th Standard. He was earlier studying in St. Andrews, Jagatpuri. The relevant portion of the order dated 21st August, 2024 passed by CWC is extracted hereinunder:

“The CWC IV had interacted with the IO/SHO. Nani of the child and the child himself. The child does not wish to go to the mother.

The Nani is a Govt. employee and is likely to take care of the child as she has been doing during holidays etc. Her identity has been verified by the IO and also by the child before the CWC IV.

It is therefore seen that the child on his own is living with his Nani and there is no coercion by the Nani. The child is used to stay with Nani earlier also with the consent of the mother of the child.

Form 20 has been filled by the Nani and is undertaking to take care of the child. The child does not feel comfortable in going or been placed to a CCI.

XXX

Directions:

- 1. The child is placed with the Nani in the overall best interest of the child. The mother has not filed Form 20 but the DD states that he states that the child be*



placed in CCI. The child needs to be at home or in near home facility and this child is very vehemently wishing to go with the Nani.

- 2. The Nani of the child is directing to ensure physical and emotional wellbeing. Education be continued for the child.*
- 3. IO SHO to take further action as may be required.*
- 4. The child be produced before the CWC IV by the Nani on the next date of hearing.*
- 5. The Nani of the child father to contact 112/1098 helplines in case of any adverse incident regarding the child.”*

9. Today, the Petitioner, her child and Respondent Nos. 4 and 5 are present in Court. The Court has interacted with the said parties in chamber.

10. After interaction, it is clear that *prima facie*, the child is very comfortable in the maternal grandparents' house and he does not wish to live with his mother. From the facts gathered during the interaction, the Court is also of the opinion that the child ought not to be disturbed presently.

11. Considering the overall well-being of the child, it is directed that the child can remain in his *Nana-Nani's* house. The mother of the child i.e., the Petitioner is free to visit her parents' house whenever she wants to meet the child. The brother of the Petitioner and the mother have assured that they would not cause any obstacles in the Petitioner meeting the child whenever she wants. The brother of the Petitioner has assured the Court that he would not display any abusive behaviour towards her sister. The Petitioner has also assured good behaviour with her child.

12. The aforesaid arrangement is subject to any order that may be passed by the CWC or a court of competent jurisdiction in this regard.

13. The residence- I-171, Lalita Park, Gali No. 13, Lakshmi Nagar, Delhi-



110092 is stated to be consisting of four floors i.e., the ground floor, first floor, second floor and the third floor. The Petitioner has been permitted by her parents to stay on the first floor. They have no objection if she continues to stay on the first floor. However, insofar as the remaining floors are concerned, the Petitioner has no objection if her parents give them out on rent, in the manner as they deem appropriate, so long as the Petitioner is not disturbed from her residence at the first floor.

14. Considering that the parents of the Petitioner have two properties, the parents of the Petitioner can also explore living with the child within the same building so that the Petitioner, mother can also regularly meet the child if so possible.

15. The Petitioner shall join the CWC proceedings where the next date is 8th November, 2024.

16. Petition is disposed of in these terms. All pending application(s), if any, also disposed of.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

SEPTEMBER 25, 2024

Rahul/rks