

BENCH ID
266046
AD 46.
4.12.2025
S.D.
Ct. No. 37

W.P.A. (H)/96/2025

**Tasmina Khatun
Vs.
State of West Bengal & Ors.**

Mr. Sourajit Dasgupta
.....For the petitioner

Mr. Biplab Guha
Mr. Bikramjit Mandal
...For the State

Mr. Ambar Nath Banerjee
Ms. Leena Panja
Ms. Amrita Panja Moulick
..for the respondent nos. 9 to 11

Petitioner seeks custody of her minor son.

Minor son was born out of the wedlock between
the petitioner and her first husband.

State and the private respondents are
represented.

First husband of the petitioner who is not a
party to the present writ petition appears.

Apparently, the child is with the private
respondents. The private respondents are the
parents of the petitioner.

Petitioner left her paternal home in or about
April, 2025 to marry for the second time.

Our attention is also drawn to the fact that the first husband of the petitioner filed a proceeding for custody of child as against one of the private respondents. Such proceedings are pending before the District Judge, Murshidabad.

The present habeas corpus writ petition need not converted into the proceeding for custody of a minor, particularly when, there is a proceeding pending before the District Judge, Murshidabad in respect of the custody of the child. We are also taking into consideration the fact that the petitioner before us married for the second time and left a child with the parents with whom the child is presently staying.

It would not be proper for us at this stage to take the child from the custody of the private respondents who are the parents of the writ petitioner herein and place the child in the custody of the writ petitioner.

Since the writ petitioner herself would be child in the custody of a parent who are private respondents herein, such custody cannot be treated as an illegal custody.

In such circumstances, we are not minded to interfere in the present writ petition.

W.P.A. (H) 96 of 2025 is disposed of.

Parties are at liberty to take appropriate steps before the appropriate forum for the purpose of custody of the child.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)