

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

111+233

2026:PHHC:075459



CRWP-10107-2025 (O&M).
Date of decision: 13.05.2026.

AVTAR SINGH AND ANOTHER

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Mr. Sandeep Lather, Advocate,
for the petitioner(s).

Mr. Mohit Kapoor, Sr. DAG, Punjab.

Mr. Inderpal Singh Parmar, Advocate,
for respondents No.6 to 10.

VINOD S. BHARDWAJ, J. (Oral)

CRM-W-492-2026

Application is allowed as prayed for subject to all just exceptions.

Counter affidavit of petitioner No.1-Avtar Singh along with

Annexures P-8 to P-10 are taken on record.

The Registry is directed to tag the same at an appropriate place.

Main case

The instant petition seeking issuance of a writ in the nature of habeas corpus and appointment of warrant officer to raid the premises of respondents No.6 to 9 to recover the detinue Gaganpreet Kaur (Minor) and thereafter, to produce her before this Court, has been filed by Avtar Singh who claims that he is cousin of Premjit Singh i.e. respondent No.6 herein. The minor child namely Gaganpreet Kaur had been born out of the wedlock of Premjit Singh and Jaswinder Kaur. The family had four daughters and Gaganpreet Kaur was handed over by the biological parents Premjit Singh and Jaswinder Kaur to Premjit Singh's brother Bahadur Singh. However, no formal adoption deed was executed between the parties. Counsel for the petitioner however contends that the minor Gaganpreet Kaur was given in adoption both to them as well as Bahadur Singh and they are the ones who have been taking care of the child since she was two months old. Unfortunately, Bahadur Singh as well as his wife Kuldeep Kaur passed away on 18.05.2025 and 12.07.2024 respectively. Counsel contends that post death of Bahadur Singh as well as his wife, the child was being take care of by them but she has now been unlawfully removed from their lawful custody. The parents of the minor had agreed to allow the parties to meet the child and take care of her but they are hostile.

The State counsel, on the other hand, disputes the entire version and submits that the claim for custody is father a fight for the estate left behind by Bahadur Singh – who is the brother of the biological parents and the petitioners who are collaterals and is not driven by welfare of the child. It is submitted that the Said Bahadur Singh owned a plot ad measuring 10 marlas

and he executed a Will with respect to 05 marlas of land in favour of minor Gaganpreet Kaur and the remaining 05 marlas was willed by him in favour of his nephew i.e. respondent No.8.

Before proceeding further into the matter, a report from the Child Welfare Officer, Ludhiana, was called for and the said report is available on record. The said report prima facie is suggestive that the child is happy in the care and custody of her parents and expressed willingness to stay with them. This thus gives rise to a disputed claim by petitioner claiming a preferential right over the biological parents.

Taking into consideration that the dispute is between the two parties i.e. the biological parents vis-à-vis the parties claiming to have taken care of the child, without any formal right having vested in them, as per law, I am of the opinion that issues arising herein cannot be summarily decided in the present proceedings in the nature of Habeas Corpus.

The present petition is accordingly disposed of at this stage with liberty to the parties, if so advised, to approach the Family Court for seeking custody of the child. Needless to mention that in the event of any such application being preferred, the application for interim custody/visitation rights shall be considered and decided expeditiously and preferably within a period of 03 months of the parties putting in an appearance.

May 13, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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