HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 731 of 2026

Manoj Sahlot and another

.....Appellant(s)

Versus

State of U.P. and 6 others

.....Respondent(s)

Counsel for Appellant(s) : Ashish Rai, Om Prakash Rai
Counsel for Respondent(s) : Rajiv Singh (S.C.), Atul Kumar Tiwari

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Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. Heard learned counsel for the parties.

2. This intra court appeal is directed against order dated 27.05.2026, whereby the learned Single Judge has allowed Habeas Corpus Writ Petition No. 441 of 2026 filed by respondents no. 6 and 7 and has directed handing over custody of minor son (respondent no. 6) to his mother, i.e. respondent no. 7 (‘the respondent’).

3. The appellants herein are, respectively, father-in-law and mother-in-law of the respondent, i.e grand parents of the corpus Lakshit Sahlot, who is aged about 8 years. The writ petition was filed by mother of the corpus with the pleas that her marriage was solemnized with son of the appellants on 10.12.2017 and out of the wedlock, two children were born, one being the corpus and the other being her younger daughter.

4. By giving reference of some criminal case registered against the husband and in-laws of the writ petitioner on the allegations of dowry harassment etc., it was stated in the petition that, w.e.f. 13.05.2022, the petitioner was living with her children at her parental home; that pursuant to a compromise entered into between the petitioner and her husband, she alongwith her both children went to her matrimonial home on 07.12.2023, however, on 26.04.2024, an incident of physical assault with the petitioner took place and the appellants forcibly detained her both the children, whereafter, pursuant to another FIR registered at the instance of the petitioner and due to intervention made by police, the children were

handed over to her on 29.04.2024.

5. It was further stated that on 28.11.2025, the petitioner received an information that her husband had committed suicide at Ghaziabad, she reached there with her parents and both minor children on 29.11.2025 and after performing cremation of her husband, the appellants forcibly detained the corpus, whereafter the petitioner continued to submit applications before the police authorities but to no avail and, hence, the writ petition was filed.

6. The learned Single Judge, based upon the previous proceedings held in the petition, whereby the parties were directed to disclose their income, assets and the manner in which they propose to ensure welfare of the minor corpus, proceeded to consider the submissions made and the material available on record and, by the order dated 27.05.2026, allowed the petition, as already indicated herein-above.

7. Learned counsel for the appellants has made submissions that welfare of the corpus lies with the appellants and not with the respondent as she has no source of income and cannot maintain the child. It is further submitted that it was only on account of indifferent attitude of the respondent that the appellants' son, i.e. father of the corpus, committed suicide and once the respondent, in her affidavit filed before the Writ Court, stated that she earns only a sum of Rs. 20,000/- per month by way of giving tuition to 10 students and in proceedings under Section 144 of B.N.S.S. also, she has stated about her poor financial condition, the learned Single Judge was not justified in handing over custody of the corpus to the respondent merely on the ground that she is the mother.

8. It is lastly submitted that the learned Single Judge has not even granted visitation rights to the appellants and, therefore, the order impugned is unsustainable and deserves to be set aside.

9. Learned counsel for the respondent, on the other hand, has supported the order impugned and has prayed for dismissal of the appeal.

10. We have considered the submissions made and have perused the material available on record.

11. The order passed by the learned Single Judge reproduces the affidavits filed by rival sides pursuant to a previous order dated 08.05.2026. The affidavit filed by the respondent indicates that her father is a retired Government teacher and is having sufficient land; that she is well educated lady and giving tuition to 10 students and earning approximately 20,000/- per month; and that she has done her Bachelor of Computer Applications in June, 2013 and B.Ed. in 2015. Learned Single Judge also considered the affidavit of the appellants indicating that appellant no. 1 is running business of tour and travels and apart from realizing rent from two shops, he is engaged in agricultural farming and earning approximately Rs. 60,000/- per month.

12. After considering the affidavits filed by both sides, learned Single Judge thoroughly discussed the facts regarding lodging of criminal cases, commission of suicide by husband of the respondent, detention of the corpus by the appellants, provisions of Section 6 of Hindu Minority and Guardianship Act, 1956 and also the academics of the corpus. Thereafter, by referring to the judgments of Hon'ble Supreme Court in **Gaurav Nagpal Vs. Sumedha Nagpal: (2009) 1 SCC 42, Yashita Sahu Vs. State of Rajasthan: (2020) 3 SCC 67** and **Tejaswini Gaud and others Vs. Shekhar Jagdish Prasad Tewari and others: (2019) 7 SCC 42** and considering the tender age, continuity of care of corpus with mother, emotional bonding and daily care, mother's role in shaping moral values, discipline and emotional security, the learned Single Judge allowed the petition.

13. We also find from the record that out of the two children, the younger daughter has always been with mother and it was only the minor son who was detained by the appellants since the day of cremation of his father. As to what prevented the appellants to claim custody of the other child, i.e. minor girl, submission was made by counsel for the appellants that the proceedings under the Guardians and Wards Act have been instituted by them at district level, which are pending (although no record of the said proceedings has been filed in this appeal).

14. Be that as it may, the mere fact that the appellants may be having better financial resources in comparison to the respondent, the same, in

itself, cannot be a ground for depriving the mother of custody of her minor son aged about 8 years and in case the appellants think that by their financial status they are better placed to ensure welfare of the corpus, they can still provide financial assistance to the respondent for the purposes of good upbringing of the corpus and also the other child, i.e. the younger daughter aged about 4 years.

15. As far as the submissions made that the learned Single Judge has not even granted visitation rights to the appellants, we find that once the appellants have already instituted proceedings under the Guardians and Wards Act before the district Court, the same may be in relation to younger girl other than the corpus, they can certainly seek appropriate remedy at the district level as far as visitation rights are concerned and are also free to institute fresh proceedings in relation to the corpus for the said purpose.

16. Considering a well structured order passed by the learned Single Judge, wherein consideration has been made to the entire facts and circumstances of the case and the material available on record, we do not find any good reason to take a different view in the matter.

17. The appeal has no substance; the same is, therefore, **dismissed**.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

October 27, 2026
AKShukla/-

Digitally signed by :-
ANIL KUMAR SHUKLA
High Court of Judicature at Allahabad