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Reetu Verma v. State of Haryana, 2019 PLRonline 3501

PUNJAB AND HARYANA HIGH COURT

Krishna Murari CJ. Arun Palli J.

Reetu Verma v. State of Haryana

LPA No.3716 of 2018

23.05.2019

Custody of Child – By the wife – Before this Court as well as through mediation, innumerable efforts have been made by us for an amicable settlement between the two, to secure the interest of the child so that he is not deprived of either love of father or the mother – Since the question of the custody of the minor child and the welfare of the child being supreme it can only be decided on the basis of evidence as to which of the two parents are in a better position to look after the welfare of the child and a conclusion in respect of same only be arrived at by way of an evidence – It would be in the interest of justice that the appellant is relegated to avail the remedy under the Guardian and Wards Act to seek the custody of the minor child before the appropriate Court – Guardian and Wards Act.

Mr. Sumeet Singh Brar, Advocate for the appellant. Mr. Sharad Aggarwal, AAG, Haryana. Mr. Navneet Singh, Advocate for respondent No.4. Mr. Mohit, Advocate for respondents No.5 and 6.

KRISHNA MURARI, CHIEF JUSTICE (Oral):

This intra court appeal, under clause X of the letters patent, is directed against the judgment and order dated 29.11.2018, passed by the learned Single Judge.

Facts in brief required for the purpose of adjudication for the controversy can be summarized as under:-

The parties are husband and wife, having a minor son namely Jiyanshu Verma. Admittedly, on account of matrimonial dispute minor son is in the custody of the father-respondent, as every time they have appeared before us, the child has been brought by him. Habeas Corpus petition was filed by the appellant-wife seeking custody of the minor child for herself. Learned Single Judge dismissed the habeas corpus petition on the ground that the custody of a minor child with a natural guardian cannot be said to be illegal and relegated the parties to avail the remedy under the Guardian and Wards Act. Before this Court

innumerable efforts have been made by us for an amicable settlement between the two, to secure the interest of the child so that he is not deprived of either love of father or the mother. On more than two occasions we interacted with the parties in the Chamber to bring an amicable settlement but the same failed. Lastly, on the suggestion of learned counsel appearing for the parties, we referred the matter to the mediation, where also the parties have failed to arrive at an amicable settlement. Since the question of the custody of the minor child and the welfare of the child being supreme it can only be decided on the basis of evidence as to which of the two parents are in a better position to look after the welfare of the child and a conclusion in respect of same only be arrived at by way of an evidence.

Hence, in our considered opinion the impugned order and judgment does not require any interference and it would be in the interest of justice that the appellant is relegated to avail the remedy under the Guardian and Wards Act to seek the custody of the minor child before the appropriate Court. With this, intra court appeal stands dismissed.

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