

Present : Sh. Devinder Sharda, Advocate, counsel for applicant
through proxy

Sh.J.S.Azzee, Advocate, counsel for respondent

Arguments on application for handing over the interim custody of minors 1-Shallu aged about 13 years, minor daughter and son of Late Kala Ram and petitioner Seema from the respondent (Grand-mother), during the pendency of the present petition heard.

2. Applicant Seema has submitted that she and her previous husband could not adjust with each other so their marriage was dissolved in a joint petition No. 125 of 13.09.2012 u/s 13-B of HMA, by the Court of Sh.Raj Shekhar Attri, the then Learned District Judge, Patiala. Kala Ram stated that he will maintain both children but he died after two years of mutual divorce so due to the changed circumstances, now she is most suitable person for having custody of minor children being natural guardian. She has also submitted that grand mother of children has illicit relations with Raj Singh, resident of Khnadebad and that children are not happy in the custody of their grand mother. She has got married with Parminder Singh @ Gandhi son of Jaswant Singh, resident of Sunam and they have two years old daughter, he is having sufficient income. Now, both of them can easily maintain the children whereas respondent has failed to provide facilities and simple comforts to them.

3. In reply, respondent Guddi has replied that application has been filed on wrong facts, during life time of Kala Ram, Seema was having illicit relations with Parminder Singh and so she left his house. She is properly maintaining the children. Children are getting proper education. According to her, applicant is having no love and affection with the

minors and has no right to the custody of minor children.

4. After considering arguments and perusing file, this Court has come to the conclusion that this application has been filed in main petition ie Petition Under Guardian And Wards Act 1890, which petitioner Seema wife of Parminder Singh has filed for handing over the custody of minors 1-Shallu aged about 13 years and 2-Malik aged about 8 years, minor daughter and son of Late Kala Ram and petitioner Seema from respondent (Grandmother) to petitioner being natural guardian/mother. This petition is highly contested by respondent Guddi on the grounds that petitioner has no locus standi and cause of action to file the present petition, she is estopped from filing it by her own act and conduct, petition is not maintainable, petitioner has not come to Court with clean hands, petitioner is not entitled to custody of minor children as she is having bad habits and she is cruel. According to her, due to her relationship with Parminder Singh, she had taken divorce from Kala Ram, therefore, she should not be granted custody of children. In such circumstances, when the children were in the custody of deceased Kala Ram before his death, without taking evidence of applicant as to how the respondent, mother of deceased Kala Ram is not able to take care of the minors, relief of handing over interim custody to petitioner cannot be given. Therefore, this application for interim relief stands dismissed.

5. The case is adjourned to 02.05.2018 for evidence of petitioner on main petition.

Date of order : 01.03.2018

(Pushpa Rani) PCS

Next date : 02.05.2018

Guardian Judge,

Moonak(UID-PB0279).