

## **In Chamber**

**Case :-** FIRST APPEAL No. - 780 of 2018

**Appellant :-** Navinderjeet Kaur

**Respondent :-** Sukhdeep Singh

**Counsel for Appellant :-** Pramod Kumar Sinha

**Counsel for Respondent :-** Varinder Singh

**Hon'ble Manoj Misra,J.**

**Hon'ble Rohit Ranjan Agarwal,J.**

On 28.11.2018, we had passed the following order:-

*"Heard learned counsel for the appellant; and Sri Pradeep Saxena, holding brief of Sri Varinder Singh, for the respondent.*

*The instant appeal has been filed against the order dated 16.10.2018 by which it has been directed that custody of male child Sukhdeep, aged about five years, and female child Sahib Kaur, aged about eight years, be handed over to their natural father (respondent herein).*

*The appellant is mother of the children.*

*It has been contended that the court below has not properly considered the evidence led by the appellant and the children were not examined.*

*Let this matter be put up in Chamber at 3.30 PM on 18th December, 2018, on which date, both sides shall be present, in person, with the children.*

*In the meantime, the effect and operation of the order dated 16.10.2018 passed by the court below shall remain stayed."*

Pursuant to the order, the appellant Smt. Navinderjeet Kaur with minor daughter Sahiba Kaur and minor son Awardeep Singh @ Amardeep Singh is present. They have been identified by their counsel Sri Pramod Kumar Sinha. Respondent Sukhdeep Singh is also present and he has been identified by his counsel Sri Varinder Singh.

We have examined the parties as also their children.

It appears to us that maternal grandfather (nana) and maternal uncle (mama) of the children are accused in certain criminal cases and, currently, they are not residing with them. From their statements, it appears that the police have visited their house on two or three occasions.

The children have stated that they have not been with their father since last June, 2017. They have stated that they are studying in G.D. Goenka Public School, Rudrapur. However, on deeper probe, it transpired that they had to leave for Delhi with their mother on few occasions as a result they had to miss their

school. But, by and large, they appear to have no complaint against their mother.

Sri Sukhdeep Singh-the respondent has prayed for visitation rights. He states that currently the children are under the influence of their mother and, therefore, they have not made any statement against their mother but their future would neither be bright nor safe with their mother as their maternal uncle (*mama*) and maternal grandfather (*nana*) are accused in criminal cases and are absconders. He states that in case he is provided regular opportunity to meet the children, on a regular basis, the children may develop confidence in him and it may, ultimately, be in the interest of the family.

We also explored possibility of settlement between husband and wife. It appears that right now they are not agreeable to living together. However, the appellant is willing to provide visitation right to the respondent to meet the children on a weekly basis at a public place. She has suggested that about 2-3 kilometers from her house, there is a mall by the name of Metropolis Mall, which is located at Haldwani Road, Rudrapur (Uttarakhand). It has been disclosed to us that the respondent is residing at a distance of about 45 kilometers from that place in the district of Rampur.

The respondent has stated that he is willing to meet his children at the abovementioned Mall on every Sunday on a weekly basis and he prays that he may be allowed at least five hours meeting with his children on each Sunday so that he may be in a position to win their heart.

In the facts of the case, keeping in mind the statements of both the parties, we deem it appropriate to provide as follows:-

(a) The respondent shall provide his mobile number to his wife (appellant) during the course of day. Likewise, the appellant will also provide her mobile number to the respondent so that they are in a position to contact each other on Sunday of every week starting from 23rd December, 2018 to arrange for a meet with the children at the abovementioned Mall.

(b) Upon reaching the Mall mentioned above, on each Sunday, starting from 23.12.2018, the respondent shall call the appellant to bring her children. Such call may be made between 10.00 am. to 10.30 a.m. Upon receipt of the call from the respondent, the appellant shall bring her children to the Mall and let them remain with the respondent inside the Mall upto 2.30 p.m.

(c) While the children are in company of the respondent, as

above, the appellant would not interfere in the interaction between the respondent and his children. But she would have a right to interfere if she feels that the well being of the children is jeopardized.

(d) During his meet with the children, as indicated above, the respondent shall not take away the children with him outside the premises of the Mall though it shall be open to him to treat his children to a lunch at a restaurant within the Mall or to take them for any kind of entertainment meant for children that may be available in the premises of the Mall.

The appellant, in order to obviate any future dispute, has provided her mobile number for contact as 7983091184. Likewise, the respondent has also provided his mobile number as 9837329802.

Aforesaid arrangement shall continue for a period of two months starting from 23rd December 2018 and it is made clear that parties shall ensure that their mobile numbers are in service and switched on on the specified days i.e. Sunday of every week.

List this matter again in 26th February 2019.

Subject to the above, the interim order granted earlier shall continue.

**Order Date :-** 18.12.2018  
Ram Murti