

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.6120/2001

(From the judgement and order dated 02/02/2001 in FAO 241/00  
of The HIGH COURT OF DELHI AT N. DELHI)

RUKMA SINGH & ANR.

Petitioner (s)

VERSUS

SUHAIB ILYASI

Respondent (s)

(With prayer for interim relief)

Date : 5/09/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA  
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mr. A.Sharan,Sr.Adv.  
Ms. Anupama Sharma,Adv.,  
Mr. Vishnu Sharma,Adv.  
Mrs.Madhu Sharan,adv.  
Ms. Manita Verma,adv.  
Mr. Tathagat H.Vardhan,adv.  
Mr. Amar Jyoti Sharma,adv.  
Mr. Vishwajit Singh,Adv.

For Respondent (s) Mr. A.M.Singhvi,Sr.Adv.  
Ms. Abha Ray,adv.  
Mr. Amit Bhandari,adv.  
Mr. Ajit Kumar Pande,Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....J.  
.SP2

Leave granted.  
Appeal is disposed of.

.SP1

(Suman Wadhwa)  
Court Master

(S.Malkani)  
Court Master

Signed order is placed on the file.

CIVIL APPEAL No. 6237 OF 2001  
(Arising out of SLP (C) No.6120 of 2001)

Rukma Singh & Anr.

& Appellants

Vs.

Suhaib Ilyasi

& Respondent

O R D E R

Leave granted.

In compliance with our order dated 31-8-2001 the respondent is present with the child. The appellant No.1 is also present in court.

The controversy raised in this appeal relates to custody of the minor girl named Aaliaya aged about four years. The appellants are maternal grandmother and aunt (mother's sister) of the child and the respondent is her father. The appellants have assailed the order passed by the single Judge of the Delhi High Court on 11.7.2000 in which he restrained the appellants from forcibly taking custody of the child from the respondent which was confirmed by the division bench by the order dated 2.2.2001. The operative portion of the order passed by the learned single Judge reads as under :

I accordingly restrain the defendants from forcibly taking custody of the child from the plaintiff. However, this order will not in any way come in their way to take custody of the child in accordance with law. No further orders are required to be passed on this application and the same stands disposed of.

During the hearing of the appeal it was submitted before us that after the order of the division bench of the High Court was passed the appellants have filed a case for custody of the child under the Guardian and Wards Act, which is registered as Case No.86 of 2001 on the file of Mrs.Meena Bansal Krishna, Guardianship Court, Delhi. In the said case the appellants have also filed a petition seeking interim custody of the child. The case is stated to be posed on 3rd October, 2001.

Since the arrangement for custody of the child made by the learned single Judge as confirmed by the division bench of the High Court is in the nature of interim arrangement subject to the order in a properly constituted proceeding before the competent court for taking custody of the child and such a proceeding has already been instituted before the Guardianship Court in which a petition for interim custody has also been filed, we are not persuaded to interfere with the order under challenge at this juncture. We are of the view that the interest of justice will be adequately served if the petition for interim custody of the child is considered by the Guardianship Court expeditiously and appropriate order passed. Since the matter is urgent as submitted by learned counsel appearing for the appellants it is appropriate that the case is advanced and the application for interim custody is taken up without further delay. The learned counsel for the parties are agreed on the above arrangement.

Accordingly it is ordered that the Judge, Guardianship court will take up the petition filed by the appellants for interim custody of the child Aaliaya in Case

No.86 of 2001 on 19th September, 2001. The learned counsel for the parties have agreed that counter affidavit, if any, to the said petition will be filed in the Court by 15th September, 2001 and rejoinder, if any, will be filed by 17th September, 2001. Learned counsel for the parties have further agreed that the parties will appear before the Judge, Guardianship Court, Delhi on 19th September, 2001 without any further notice from the Court. The Guardianship Court will take up the petition for interim custody of the child on 19th September, 2001 and dispose it of expeditiously, if possible by 27th September, 2001.

The appeal is disposed of on the terms aforesated.

No costs.

The registry will send a copy of this order to the Judge, Guardianship Court, Delhi forthwith.

& & & & & & ..J.  
(D.P. Mohapatra)

& & & & & & ..J.  
(Shivaraj V.Patil)

New Delhi  
September 5, 2001

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