



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Habeas Corpus Petition No. 245/2024

Rajesh Bishnoi S/o Shri Meera Ram Bishnoi, Aged About 65 Years, R/o 227, Jwala Vihar, Chaupasni Road, Jodhpur.

----Petitioner

Versus

1. The State Of Rajasthan, Through The Secretary Of Home Affairs Department, Government Of Rajasthan, Jaipur.
2. The Deputy Police Commissioner (West), Jodhpur.
3. The Sho, Of Pratap Nagar, Police Station, Jodhpur.
4. Mr. Manoj Bishnoi S/o Ram Singh Bishnoi, Aged About 36 Years, R/o 24 Pd, Suthar Mandi, Ps Mohangarh, District Jaisalmer, At Present R/o 27, Maruti Vihar, Gali No. 2, Ner Dps School, Udaipur (Working At Department Of Information Technology, Collectorate Premises, Udaipur And Mobile Number 9929200029)
5. Ram Singh Bishnoi S/o Bhagirath Bishnoi, R/o 24 Pd, Suthar Mandi, Ps Mohangarh, District Jaisalmer.
6. Sarojna Bishnoi W/o Ram Singh Bishnoi, R/o 24 Pd, Suthar Mandi, Ps Mohangarh, District Jaisalmer.
7. Mohit Bishnoi S/o Surendra Bishnoi, R/o Dhani Paniyali, Tehsil Abohar, District Fajilka, Punjab - Pin Code 152116

----Respondents

For Petitioner(s) : Mr. Rajesh Choudhary
Dr. Renu Bhati

For Respondent(s) : Mr. Anil Joshi, GA-cum-AAG with
Mr. Rajat Chhapparwal, AAAG
Mr. Rakesh Matoria with
Mr. Vikas Bishnoi

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

Reportable

25/07/2024

1. During the course of hearing on 09.07.2024, owing to the issue involved herein i.e. custody of a minor i.e. Master Kiaan, rather than taking a strict legalistic approach, and while adopting



a pragmatic and realistic approach, and focusing on the welfare and upbringing of the child with due priority, extensive deliberations were held with the mother, the father and the child, during the course of the day, whereafter with the consent of the parties, this Court had passed the following order:-



1. The Court entered into extensive talks with mother, father & child in the Chamber of this Court for about one and a half hour.
2. It is a very peculiar situation, where the child seems to be torn between the parents and while having an emotional attachment with father and mother, the child does not wish to part company with either of them. The child kept on harping upon that he wants to live with both the parents together.
3. Since both the parents are highly educated and adult citizen in their own capacity, this Court does not wish to enter into their mutual relationship at this stage. However, the child himself has tried to balance his emotions by requesting the Court that he may be sent for four days with his mother and for four days with his father, then again with the mother and again with the father.
4. The suggestion of the child, although a very emotional suggestion, but, is accepted by the Court. Fortunately, both the parents have also agreed with the suggestion of child and they are willing to abide by the wish of the child to this extent.
5. Upon the aforesaid matrix, it is directed that today, custody of the child shall be given to the mother – Dr. Mallika Bishnoi and it is ordered that the mother shall hand over the custody of the child to the father – Mr. Manoj Bishnoi on 13.07.2024. The father shall again hand over the custody of the child to mother on 17.07.2024 and then mother shall again hand over the custody of the child to father on 21.07.2024.
6. The modalities of time and place shall be decided by the respective lawyers of the parties.
7. Since, the Court has devoted a very long time in the matter and has understood the matrix, the matter is marked as part heard.
8. List the matter on 25.07.2024.”

2. The aforesaid consensual order was well abided by the mother, the father and the child, and accordingly, the modalities



pertaining to division/arrangement of custody were mutually and smoothly carried out by both the parents.

3. Today, again both the parents and child along with their lawyers are present in the Court. After a prolonged session of mediation with regard to the custody conflict, with which this Court is confronted, and looking into the larger interest of the child, which is the paramount consideration, both the parents have fully agreed that they shall continue to share the custody of the child between themselves in the following manner:-

(i) The permanent custody of the child – Master Kiaan, who is 06 years 09 months old shall remain with the mother Dr. Mallika Bishnoi (at present, working at Chandigarh) changing the current status quo whereby the custody was with father.

(ii) The mother shall handover the custody of the child to father Mr. Manoj Bishnoi for four days every month, or in the alternate, for eight days, every two months, to which, both the parents have agreed, while stating that they shall demarcate such days mutually.

(iii) Apart from the aforesaid custody of the child, the father shall also receive his custody during winter vacations, summer vacations, autumn/Dussehra break, Holi & Diwali breaks strictly in accordance with the calendar of school, in which, the child will be studying. For the said purpose, the official calendar authorized by the School shall be shared with the father by the mother.

(iv) If mother wants to go with the child in the same town, where the father is residing, she is permitted to go, but





custody of the child shall remain with the father on the dates demarcated for the father.

(v) Whenever the mother is having the custody of the child, it shall always be open for the father to have visitation rights of two hours; conversely, whenever the father is having the custody, the mother shall have visitation rights for two hours.

(vi) Though the mother and the father have assured the Court that they do not have any financial or economic issues pertaining to the amount to be spent on the child, but the mother having the regular custody of the child, shall bear the regular expenses of the child. Whenever the father seeks custody of the child as directed above, he shall be required to travel to the town where the child and the mother are residing for taking the custody and giving it back to the mother at the same place in accordance with the aforesaid agreement. The modalities of the time shall be decided by the parents themselves.

(vii) At any point of time during the year, the father will also have the right to seek ten days' extra custody, whenever it is convenient to him.

4. Since both the parents are very understanding and matured, therefore, this Court has decided to pass an order with regard to the custody of the child, which shall remain binding upon the parents, in view of their consensual and mutual agreement before this Court. It is noted that both the parents are highly educated and well placed.





5. Though, it is an agreement which has been arrived at by the consensus of both the parents, lawyers and the family members present before the Court, but it will be considered a legally binding directive from this Court for all parties involved.

6. Accordingly, the present habeas corpus petition is **disposed of. The Rule stands discharged.**

7. However, it is made clear that while disposing of this petition, we expect that both the parents, who are respectful citizens of this country, possess a high level of education and are well mannered, having given numerous hours of deliberations and mediation in this Court, shall be required to abide by the consensus, which has been arrived at between them, and would strive towards the best interest, welfare and upbringing of the child.

8. Lastly the parents, very humbly submit that each of them shall equally contribute towards education expenses charged by the School, wherever the child studies, as agreed upon by them. Any kind of hobby/game/passion/co-curricular activity/craft or any other developmental activity of the child, shall be mutually planned by the parents.

9. After dictation of the order in open Court, the child – Master Kiaan came at the Dias, where we were sitting and gifted us two beautiful flowers and a pen stand made of craft paper, which he has made for us, as a gesture of his love and affection, which probably gained strength, owing to the long duration of mediation and separate sessions, that have taken place between the child and the Court.



10. This Court acknowledges and appreciates the creativity and positivity of the child and also his sweet gesture and thank him for the wonderful gifts, which he has brought for us. At the end, the child also though in a soft tone, expressed his thanks to the Court. We shall preserve the precious gifts made of craft paper in our Chambers as a 'Symbol of Strength of Mediation Law'.

(MUNNURI LAXMAN),J

(DR. PUSHPENDRA SINGH BHATI),J

24-Nirmala/devraj