

Shivani Srivastava vs Aanya Srivastava Through Chandra Mohan ... on 2 March, 2020

Bench: Chief Justice, B.R. Gavai, Surya Kant

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ITEM NO.30

COURT NO.1

SECTION II

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (Crl.)

No(s).9301/2017

(Arising out of impugned final judgment and order dated 03-11-2017
in HC No.21424/2016 passed by the High Court Of Judicature At
Allahabad, Lucknow Bench)

SHIVANI SRIVASTAVA

Petitioner(s)

VERSUS

AANYA SRIVASTAVA THROUGH CHANDRA
MOHAN (GRANDFATHER) & ORS.

Respondent(s)

(FOR ADMISSION and I.R.)

Date : 02-03-2020 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

Mr. Arvind Varma, Sr. Adv.
Mr. Gaurav Agarwal, Adv.
Ms. Saloni Tangre, Adv.
Ms. Shristi Gupta, Adv.
Mr. Raj Singh Rana, AOR

For Respondent(s)

Mr. Rauf Rahim, AOR

Mr. V.K. Shukla, AAG
Mr. Adarsh Upadhyay, Adv.
Mr. Amol Chitravanshi, Adv.
Mr. Adarsh Upadhyay, AOR

UPON hearing the counsel the Court made the following
O R D E R

Having heard learned counsel appearing for the parties and upon perusal of the record, we are of the view that in the present case, as in many such cases, the appropriate remedy was not a habeas corpus petition, particularly when a petition being Misc. Case No.31 of 2015 under section 7 of the Guardians and Wards Act, 1890, is pending before the Principal Judge, Family Court, Lucknow.

We are accordingly of the view that the question of custody of the minor child viz., Aanya Srivastava, in the aforesaid petition shall be considered and decided by the Principal Judge, Family Court, Lucknow, on its own merits and in accordance with law.

Order accordingly.

However, we see no reason why the impugned order passed by the High Court to the extent it grants visitation rights to the grandfather of the minor child on each Sunday for two hours be interfered with at this stage.

We direct that the impugned order for visitation rights shall continue till the disposal of the case being Misc. Case No.31 of 2015 pending before the Principal Judge, Family Court, Lucknow.

It is made clear that the mother of minor child is given liberty to apply for modification of the impugned order passed by the High Court.

The instant special leave petition is disposed of in the above terms.

Pending interlocutory applications, if any, stand disposed of. (SANJAY KUMAR-II) (INDU KUMARI POKHRIYAL) ASTT. REGISTRAR-cum-PS ASSISTANT REGISTRAR