

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.3972 of 2010
Date of decision: 16.7.2010**

Satnarain

.....Appellant

versus

Smt.Meenu

.....Respondent

**CORAM: Hon'ble Mr.Justice Jasbir Singh
Hon'ble Mr.Justice Augustine George Masih**

Present: Mr.C.L.Sharma, Advocate for the appellant

Jasbir Singh, J. (Oral)

Appellant's application, to get custody of his minor son, namely, Himanshu was dismissed by the District Judge (Family Court), Bhiwani on 15.2.2010. Son of the petitioner who is five year old, at present, is residing with his mother (wife of the petitioner), namely, Ms.Meenu. It is an admitted fact that husband and wife are residing separately for the last more than six years. Wife is getting an amount of Rs.5000/- towards expenses from the appellant under the provisions of Section 125 Cr.P.C. By taking note of evidence on record, status of both the parties in life and other circumstances, the Court below came to a conclusion that it will be in the interest of the child, if he is allowed to live with his mother. To reject claim of the appellant, it was observed as under:-

“14. No doubt petitioner Sat Narain is well educated and he is working as a teacher and is financially sound drawing salary of Rs. 16,000/- per month, but in that itself does not lie the welfare of minor Himanshu. At present Himanshu is residing with his mother Meenu respondent and it has come in evidence that Himanshu is now studying in class 1st in Gramin Sthali Senior Secondary School, Morwala, Bhiwani. Thus his education is being taken care of properly. The respondent is now drawing maintenance of Rs 5000 from the petitioner which fact is not disputed by counsel for the petitioner.

15. Further, the petitioner when he stepped into the witness box he has admitted that his minor son Himanshu was born at village Bigowa. He has further admitted that Himanshu was born 5 to 6 months after respondent left his home. He has also admitted that his minor son Himanshu was born in hospital. He has also admitted that he did not come to meet his son Himanshu when he was born in the hospital. He has admitted that he did not meet his son Himanshu till date. He has also does not know in which school Himanshu is studying. Thus, all these admissions on the part of Sat Narain go to prove that he has lost our human touch with his son Himanshu. He has no care for him. Rather his real worry is that if his son Himanshu remains in the custody of respondent mother, he will be deprived of from his ancestral property in which he has right by his birth, as is clear from Para No9 of the petition. This plea is further reinforced by the fact that respondent himself has been dispossessed from ancestral property by his father.

Moreover, Sat Narain has no proper place to live as he is living in a make shift arrangement with his brother Mahipal with whom his mother lives.

We feel that the order passed is perfectly justified. At the time of arguments, nothing was shown to the contrary by counsel for the appellant. The very conduct of the appellant is such that custody of the child cannot be handed over to him at this stage. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

16.07.2010
gk

(Augustine George Masih)
Judge