Court No. - 11

Case :- CRIMINAL REVISION No. - 671 of 2017

Revisionist :- Chief Coordinator Specialized, Adoption Abikaran Gonda & Anr
Opposite Party :- State Of U.P. & Ors.
Counsel for Revisionist :- Dinesh Kumar Shukla
Counsel for Opposite Party :- Govt. Advocate,Satendra Kumar

Hon'ble Attau Rahman Masoodi,J.

Gonda Child Protection Home/ Balgrah (Shishu) a recognised NGO under Gramin Vikas Samiti, Village and Post Charu, District Gonda is registered with the Directorate of Mahila Kalyan, U.P. The organisation works for the welfare of the juveniles under the Juvenile Justice (Care and Protection of Children) Act, 2000. The orgaisation is recognised by the State Government for the purposes of the aforesaid Act.

Baby Sweta alias Riddhi, a minor girl child of the age of two years was under the guardianship of the aforesaid organisation from where, after following due procedure prescribed under law, she was handed over to opposite parties no. 2 and 3 who have adopted the child. Opposite parties no. 2 and 3 as per the procedure had applied online for adoption of the child. They are Indian citizens belonging to Delhi and their antecedents have been verified through due process by the revisionist NGO. The child was given into their custody on 4.12.2015 and the Committee in its meeting had resolved for adoption and accordingly custody of the child was entrusted to opposite parties no. 2 and 3.

In order to legitimize the process of adoption, proceedings came to be set up before the Family Court, Gonda in Misc. Case No. 08/2016. The family court proceeded with the matter and by means of the impugned judgement dated

26.5.2017, the application of opposite parties no. 2 and 3 as well as the resolution passed by the Committee on 4.12.2015 was set aside on the ground that the competent committee had not passed the resolution as per the norms of new Act envisaged under Section 38(4) according to which three members of the Committee ought to have signed the resolution.

According to the revisionist, custody of the child for adoption after fulfilling the requirements under law was given to opposite parties no. 2 and 3 on 3.12.2015 but the matter was brought before the competent court some time in the month of February, 2016. It is on the premise of institution of case in the month of February, 2016, that the family court has taken cognizance of the matter under the provisions of Act No. 2 of 2016 made applicable w.e.f. 15.1.2016.

Learned AGA was directed to obtain instructions by order dated 18.6.2017. He has placed instructions received from the Directorate, Women Welfare on record, according to which necessary procedure prescribed under the Act of 2000 has duly been followed before entrusting the custody of the child to opposite parties no. 2 and 3 for adoption.

The instructions produced by learned AGA are taken on record.

The child is in the custody of opposite parties no. 2 and 3 for the last two years or so. Undoubtedly, the adoptive parents must have developed love and affection with the child and the ocular estimation of the same while parents alongwith the child were present in the Court today also

suggests that the child has developed a sense of belonging to the adoptive parents.

Merely because the case came to be instituted in the month of February, 2016, it would not mean that the provisions of new Act would govern the situation at hand particularly in view of Section 111 of the Act of 2015 which reads as under:

> *'**111. Repeal and savings.** -- (1) The Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) is hereby repealed.*
>
> *(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deepened to have been done or taken under the corresponding provisions of the Act."*

From the perusal of record, it is evident that the process of adoption was finalised on 3.12.2015 and as such once the process of adoption was finalised prior to the commencement of the Act, the provision of repeal and saving would certainly save the act of adoption and the matter ought to have been considered within the ambit of the old Act and not in the manner in which the family court has dealt with the case.

No other anomaly has been pointed out in the process of adoption except the technical reason of the minutes of resolution not being signed by three members of the Committee as provided under the new Act. This reason alone would not invalidate the process and thus the impugned order calls for interference and the same is hereby set aside.

The process of adoption finalised in favour of opposite parties no. 2 and 3 is hereby confirmed and opposite parties

no. 2 and 3 who have acknowledged the custody of child and her well-being, are deemed to be the legitimate guardians/parents of the child for all purposes and the *inter se* rights of adoption between the child and the parents (opposite parties no. 2 and 3) shall accordingly accrue from the date of adoption i.e. 3.12.2015 under all the laws, personal or otherwise.

The petition accordingly stands allowed.

Order Date :- 21.8.2017
Fahim/-