

SUPREME COURT OF INDIA

Manju Tiwari

Vs.

Dr. Rajendra Tiwari

Writ Petn. (Criminal) No.264 of 1989

(S. Ranganathan and K. N. Saikia, JJ.)

18.01.1990

ORDER:-

1. Issue Rule Nisi. Both counsel have been heard and the Writ Petition is disposed of finally.
2. This is a writ petition for the custody of a child who is with the husband of the petitioner at present. It is unnecessary to recount the earlier history in the present case because we do not propose to finally decide at this stage whether the guardianship of the child should be with the father or the mother. There are mutual allegations which have to be gone into and decided by a court of law in appropriate proceedings.
3. We are, however, satisfied having regard to the circumstances of the case and the past history that the custody of the child should be immediately given to the mother as the child is less than 5 years old. The mother will, therefore, have the custody of the child. It will, however, be open to the father, that is, respondent No. 1 to apply for the custody of the child in appropriate guardianship proceedings. The respondent No. 1, however, will be entitled to visit the residence of the petitioner and be with the child during week ends (on Saturdays and Sundays).

4. The writ petition is disposed of accordingly.

Order accordingly.

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