



2026:AHC:33039-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 998 of 2021

Shaheen and 2 others

.....Appellant(s)

Versus

State of U.P. and 5 others

.....Respondent(s)

Counsel for Appellant(s)	:	Abou Sofian Usmani, Upendra Upadhyay
Counsel for Respondent(s)	:	Rajiv Singh (S.C.), Dinesh Kumar Yadav, Tahira Shabnam

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. This appeal is directed against order dated 12.08.2021 passed by learned Single Judge in Habeas Corpus Writ Petition No. 351 of 2021, whereby the learned Single Judge was of the opinion that the welfare of the children *prima facie* appears to be more secured in the hands of grandmother-the respondent and passed order pertaining to the visitation rights of the mother. The Court further directed that the petitioners-appellants shall have right to seek review of the order after expiry of one year in case there was any change in the circumstance.

2. Feeling aggrieved, the present appeal was filed wherein on 08.03.2022, the Division Bench passed further directions in relation to the visiting rights of the appellant No. 1 for a period of six months. On expiry of six months, the appellants moved application seeking modification of the earlier order, which came to be dismissed on 19.01.2023, leaving it open for the appellant No. 1 to move fresh application for seeking visitation rights, whereafter an application dated 02.02.2023 was filed by the appellants.

3. Counsel for the parties submit that both the appellant No. 1 as well as the respondent-grandmother have filed applications under Sections 25 and 7 of the Guardians and Wards Act, 1890 (for short 'the Act'), respectively before the Family Court, Azamgarh.

4. In view of the fact that already proceedings under the Act are pending consideration before the competent Family Court, to keep the present proceedings pending would not serve any purpose. The appellant No. 1 would be free to move appropriate application before the Family Court seeking visitation right.

5. We make it clear that the order passed by the learned Single Judge, wherein already a direction seeking review of the order after passage of one year was passed, would not come in way of the appellant No. 1 in seeking any direction before the Family Court.

6. With the above observations, the special appeal stands disposed of.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

February 13, 2026

Mukesh Pal/SL