

## A Woman’s Battle to get Custody of her Child

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Twenty five year old Swati hails from a poor home. She dropped out of school in her fifth standard. Her parents were keen to find her a good match so they paid dowry as per her demands. Swati looked forward to a happy married life but within a few months her dreams turned into a nightmare. Her mother-in-law made constant demands for more dowry. To make it worse, she found out that her husband was having an affair with another woman. The situation was deteriorating day by day and within a year her husband and mother-in-law wanted Swati to leave the house. Two and half years into marriage, domestic violence, mental torture and verbal abuse became part of Swati’s daily life. She hoped that after delivering a male child her situation would improve, however that was not to be.

In 2013, during Diwali, her mother-in-law forced her to visit her natal family and did not allow her to take her two-year-old minor son along. When Swati returned, they did not allow her to enter the house. A helpless Swati ran from pillar to post for help. Letters to the husband calling for a joint meeting by NGOs and even State Women’s Commission yielded nothing. According to them, enforcing the husband’s presence at joint meetings was a difficult task as it was a private family matter. Later with the intervention of the police, Swati managed to meet her son once a week under supervision. A year went by with this make shift arrangement, but suddenly her husband and mother in law stopped Swati from visiting the child. Even when her child was unwell for many days, her husband and mother-in-law did not allow her to enter the house to meet him.

Swati again approached a local NGO to organise a joint meeting with her husband to settle the matter. This time when they did not receive any response from her husband, they helped Swati file an official Police complaint. The NGO then referred Swati to Majlis for further legal action.

We noticed that Swati was terrified of her husband. Our first step was to convince her that it was her child as well and that she had as much right over him as her husband. We were shocked that during this entire period of over a year no one had advised Swati to pick up her son or inform her that she had a legal right to reside in the Matrimonial Home.

Our first step was to help Swati get her son back. We advised her to go to the house and take her son back. When she entered her mother-in-law threatened that they would file a case against her. The immense joy Swati felt when she held her son in her arms after a year was intense.

We then proceeded to file a case under the Protection of Women from Domestic Violence for protection from her husband and mother-in-law, custody of her son and applied for urgent ad interim reliefs. Observing the precarious situation of the mother and child, especially the fact that the two year old child had been deprived of his mother’s love for almost a year, the court immediately granted ad interim custody to Swati.

The fact that Swati had filed a case surprised and irked her husband and in vengeance he filed a case for custody at the Family Court. He also went on to appeal against our ad interim custody order in the Session’s Court. However both the courts rejected his applications and only granted him visiting rights which Swati was happy to provide.

Not one to accept defeat, the husband appealed to the High Court. The High Court observed that the husband was trying to delay the matter by filing appeals and that he had not yet paid any amount towards maintenance of the child. After considering her husband’s earnings the High Court ordered him to pay Rs. 7000/- maintenance per month towards the child’s expenses.

Swati and her husband are currently trying to settle the case by a mutual consent divorce where the husband is considering paying her a lump sum amount as part of the settlement.

Today, Swati has emerged stronger than we ever imagined. She has gained confidence to stand up for herself and secure her rights. Majlis has been a pillar of hope and support to many women like Swati: witnessing, walking and living their journeys with them.

