

GAHC010001972023



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : CRP(IO)/18/2023**

RONKU LAL NATH  
S/O- LATE HRIDAY CHANDRA NATH, R/O- VILL- RAJYESWARPUR PT -V,  
P.O- UMEDNAGAR, P.S- LALA, DIST- HAILAKANDI, ASSAM

VERSUS

DEEPSHIKHA NATH  
D/O- MR PRABIR NATH, R/O- LALA TOWN, WARD NO. 6, SRINATH ROAD,  
P.O- LALA, DIST- HAILAKANDI, ASSAM, PIN- 788163

**Advocate for the Petitioner : MR F A LASKAR**

**Advocate for the Respondent : MR. A M BARBHUIYA**

**BEFORE**  
**HON'BLE MRS. JUSTICE MALASRI NANDI**  
**ORDER**

**04.05.2023**

Heard Mr FA Laskar, learned counsel for the petitioner and Mr A M Barbhuiya, learned counsel for the respondent.

2. The case is fixed today for admission. After hearing both the parties, the matter is taken up for disposal at the admission stage itself.
3. The petitioner, being the husband of the respondent filed a petition under Article

227 of the Constitution of India, read with Section 151 of the CPC, 1908, against the impugned order dated 28.11.2022, passed by the learned District Judge, Hailakandi, in Title Suit(D) No. 07/2022, whereby, the petitioner was directed to meet his daughter in the residence of the respondent/wife along with his old aged mother.

4. The petitioner and the respondent are both school teachers by profession. The respondent was married with the petitioner on 28.07.2019, as per the Hindu rites and rituals. After their marriage, they lived together as husband and wife and out of their wedlock, a female child was born, on 14.06.2020. Subsequently, several disputes arose between the parties and the petitioner was compelled to file a divorce case in the Court of District Judge, vide Title Suit (Divorce) No. 07/2022.

5. According to the petitioner, the respondent used to stay in the house of her parents along with her two years old female child. Though the petitioner took all reasonable efforts to contact with his daughter, but the petitioner was denied by the respondent/wife to meet his daughter. Resultantly, the petitioner is deprived of meeting his daughter. Subsequently, he filed a petition before the Court of District Judge, Hailakandi, to meet his child. Although the respondent opposed the same, but the learned District Judge considering the prayer of the parties, allowed the petitioner to meet his child four times in every month, preferably on Sunday in a public park near Lala, vide order dated 05.09.2022. The respondent has challenged the said order before this Court. After hearing both sides, this Court directed the District Judge, Hailakandi to consider the matter afresh as per law and pass necessary order on the visitation rights of the petitioner. The learned District Judge, Hailakandi after hearing both sides, vide its order dated 28.11.2022, allowed the petitioner to meet his minor child along with his mother at the residence of the respondent/wife.

6. It is submitted by the learned counsel for the petitioner that the residence of the respondent is not a secured place for the petitioner and his 80 years old mother because the respondent is a revengeful lady. She had threatened to kill her husband at her

matrimonial home. Hence, under the circumstances, if the petitioner visits the house of the respondent to meet his child, along with his old aged mother, there is every possibility of happening of untoward incident. It is further submitted by the learned counsel for the petitioner that his child is staying with her mother and if the Court grants 4/5 times in a week to stay with her father, it would not be unreasonable. This Court may allow the petitioner to meet with his child in his residence at least once in a week, preferably on Sunday and to carry out the said exercise, it would be better and safe, if the respondent brings their child to the nearest Lala Police Station in the morning hours and from the Lala Police Station, the petitioner would take their child in his residence, as the Lala Police Station is the secured and impartial place for both the parties, only to hand over the child.

7. On the other hand, the learned counsel for the respondent has vehemently opposed to the prayer of the petitioner, stating that the daughter of the petitioner and the respondent is only two years old and the Police Station is not a safe and secured place for the minor daughter of the parties to hand over. It is also submitted that after hearing both sides, the learned District Judge has allowed the petitioner and his old aged mother to meet the minor daughter of the petitioner in the residence of the respondent, every fortnightly on Sunday.

8. I have gone through the order of the learned District Judge dated 28.11.2022, which reads as follows:-

*“.....Both the parties fairly submitted that the petitioner may meet the girl child at the residence of the defendant/OP on a holiday if the same is accepted to the petitioner.*

*Having considered the submission of both the parties and considering the welfare of the minor in the light of the direction made by the Hon'ble High Court, I am of the view that the petitioner be allowed to meet the minor daughter in the residence of the OP/respondent on a Sunday every fortnight. The petitioner is also allowed to visit the house of the OP with his mother to see her granddaughter.*

*The OP is directed to facilitate the visit of the petitioner and his mother to her house and during their stay in the house of the OP, no other person shall interfere their meeting with the child in any manner. The petitioner is at liberty to present any article including clothe/baby food etc. to his daughter.”*

9. After going through the order of the learned District Judge, Hailakandi, it reveals that after hearing both parties, the Court has fixed the place, i.e., the residence of the respondent, for the petitioner and his old-aged mother to meet his daughter/her granddaughter. The petitioner is also allowed to give any article, like clothes and baby food etc. to his minor daughter.

10. The welfare of the child is paramount consideration. The petitioner is confusing the two concepts of custody and the visitation rights. The trial Court has allowed the petitioner to exercise his visitation rights. Hence, the order dated 28.11.2022, is proper and legal.

11. The submission of the learned counsel for the petitioner to hand over the child to the Lala Police Station is not reasonable and acceptable one. I do not find any infirmity in the order dated 28.11.2022, passed by the learned District Judge, Hailakandi, regarding visitation rights of the petitioner.

12. The petitioner is allowed to visit his daughter as per order dated 28.11.2022, passed by learned District Judge, Hailakandi, in Title Suit No. (Divorce) No. 07/2022.

13. In the result, the revision petition is dismissed. There is no order as to cost(s).

14. The matter is disposed of accordingly.

**JUDGE**

**Comparing Assistant**