

GAHC010003002023



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

Case No. : Cont.Cas(C)/18/2023

KANDARPA BORAH
S/O- LATE UPENDRA NATH BORAH,
R/O- VILLAGE KARAYANI BAMUN GAON,
P.O- PALASHANI,
P.S- NAGAON (SADAR),
DIST- NAGAON, ASSAM, PIN-782003

VERSUS

JAYASHREE SAIKIA
W/O- KANDARPA BORSH,
D/O- BHULARAM SAIKIA,
R/O- VILLAGE KHATAR GAON,
P.O- NONOI,
DIST- NAGAON, ASSAM, PIN-782101

Advocate for the Petitioner : MR. S K TALUKDAR

Advocate for the Respondent : MR. P K MUNIR

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

27.07.2023

Considering the nature of the dispute, the proceedings are held in Camera.

Pursuant to the order dated 30.06.2023, the parties have appeared in person.

Shri Kandarpa Borah is the petitioner whereas Smti. Jayashree Saikia is the respondent and the parties are husband and wife.

The Court has also taken the assistant of Shri SK Talukdar and Shri TK Misra, learned counsel for the respective parties.

By this petition, an allegation has been made regarding non-compliance of an order dated 05.09.2022 passed by this Court in CRP Case No. 85/2022. The operative part of the aforesaid order reads as follows:

“I have heard the learned counsel for the parties and given my anxious consideration to the matter. This Court is of the opinion that the interest of justice as well as the welfare of the child would be met if the father is also given visitation rights to be with the child on 1st and 3rd Sunday of each month between 10 AM to 4 PM. On the said days, the mother of the child i.e. the Respondent shall bring the child before the Prosecution Inspector at 10 AM on each 1st and 3rd Sunday of each month and the father thereupon shall return the child on or before 4 PM of the said Sundays before the Prosecution Inspector.”

The allegation made on behalf of the petitioner was that the respondent was not facilitating a proper implementation of the said order by which the rights of visitation was given to the petitioner and in this connection, a communication by the Prosecution Inspector dated 19.10.2022 has also been referred to.

Shri TK Misra, learned counsel for the respondent-wife, however, submits that the child in question is of about four and half years and for a long period of time, as he was not in access with the petitioner, naturally there would be some hesitation on the part of the respondent-wife at the time of handing over the child and for that no fault should be attributed to the respondent-mother.

This Court has interacted with the parties personally. The respondent-wife while denying the allegation has also undertaken that she would in no way cause any

difficulties in proper implementation of the order of this Court in question whereby the rights of visitation has been given to the petitioner. The petitioner has also made an offer that for the welfare of the child, the respondent-wife may also accompany them on the dates fixed for such visitation. Though the said offer has not been accepted by the respondent at this moment, this Court is of the opinion that the said offer may be given a consideration by the respondent and it is up to her to accept or not to accept such offer.

Considering the aforesaid undertaking and the facts and circumstances leading to such filing, this Court is of the opinion that pendency of this contempt petition instead of fixing the differences between the parties may lead to further observation. Such observation has been made by taking into consideration the welfare of the child which is paramount importance.

In view of the above, the contempt petition is closed. However, the undertaking made before this Court is to be complied with in its letter and spirit.

The present order of closure has been passed only with regard to the allegations made in this petition and is confined to the same.

JUDGE

Comparing Assistant