

GAHC010150082022



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

Case No. : I.A.(Civil)/2438/2022

SANGEETA DAS
D/O LT. SARADINDU DAS, R/O FLAT NO. 4-A, BLOCK C, NIRMAL SAGAR
APARTMENT, A.K. AZAD ROAD, REHABARI, GUWAHATI, DIST.-
KAMRUP(M), ASSAM. 781008

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY, HOME, GOVT.
OF ASSAM, DISPUR, GUWAHATI- 781006

2:THE COMMISSIONER AND SECRETARY
HOME
GOVT. OF ASSAM
DISPUR
GUWAHATI-781006

3:THE DIRECTOR GENERAL OF POLICE
ULUBARI
GHY.- 781007

4:THE SUPERINTENDENT OF POLICE
CACHAR
SILCHAR

5:THE ADDITIONAL DEPUTY MAGISTRATE
CACHAR
SILCHAR

6:THE OFFICER-IN-CHARGE
SILCHAR POLICE STATION (SADAR
CACHAR

7:KUMARDEEP DAS
S/O LATE DR. CHANDRASHEKAR DAS
R/O PRATIBHA BHAWAN
AMBIKAPATTY
COLLEGE ROAD
SILCHAR- 78800

Advocate for the Petitioner : MR A UPADHYAY

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/4735/2019

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D/O LT. SARADINDU DAS
R/O FLAT NO. 4-A
BLOCK C
NIRMAL SAGAR APARTMENT
A.K. AZAD ROAD
REHABARI TINIALI
GUWAHATI
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R/O PRATIBHA BHAWAN
AMBIKAPATTY COLLEGE ROAD
SILCHAR- 788004
ASSAM.

Advocate for : MR G N SAHEWALLA
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS.

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

16.08.2023

Heard Ms. K Jain, learned counsel for the applicant/writ petitioner and Ms. M Bhattacharya, learned Government Advocate, Assam for the opposite party Nos. 1 to 6. Also heard Ms. A Baruah, learned counsel for the opposite party No. 7.

Earlier, the applicant as petitioner filed a writ petition being WP(C) No. 4735/2019, praying before the Court amongst others, for a direction to the present opposite party No. 7 who was the respondent No. 7 therein, to act in accordance with law and to present the child, namely, Sriman Advay Das @ Joe Baby, born to the applicant and the opposite party No. 7 and to pass necessary order.

During the pendency of said WP(C) No. 4735/2019, both the writ petitioner and the respondent No. 7 i.e., opposite party No. 7 entered into an agreement on 30.10.2019 to their full satisfaction and final settlement pertaining to the disputes between them.

As per the said agreement, the child was to be admitted in different school by the present opposite party No. 7 in the academic session 2020-21 and it was agreed that all expenses relating to education, medical, clothes etc. will be borne by the said Opposite Party No. 7 and further, both the parties shall have the visiting rights at the residential place of the other and each will be able to take the child to anywhere, as they would deem fit and proper.

Further, as per the said agreement between the present applicant and the opposite party No. 7 executed on 30.10.2019, their son Sriman Advay Das @ Joe Baby would stay and reside with both the parties equally for continuous span of fifteen days in a month in their respective houses until the said child attains the majority and during festivals their said son will stay with each of the parties in alternate years and that both the parties will celebrate the birthday of the said child in alternate years.

On the basis of the said agreement dated 30.10.2019 executed by both the writ petitioner and the respondent No. 7 i.e., the present opposite party No. 7, said WP(C) No. 4735/2019 preferred by the applicant/writ petitioner was disposed of by the Court vide order dated 26.11.2019.

By this Interlocutory Application and by filing individual affidavits by the applicant and the opposite party No. 7, it is placed before the Court that the opposite party No. 7 is voluntarily giving the total and absolute custody of their son, namely, Sriman Advay Das @ Joe Baby, who is presently 9 years old to the applicant, stating further that the Second Party shall reserve his visiting rights of 2 (two) days in a month to meet the child in the residence of the First party or anywhere else but only in the presence of the First Party. The Second Party will never take the child to his residence at Silchar or any other place under any circumstances or situation. The Second Party shall transfer all his vested right of taking decisions in connection with education of their said child, his academic and co-curricular activities etc. in favour of the First Party/Applicant. The Second Party shall bear the educational expenses of the child which includes payment of school fees, uniform, books and school conveyance, expenses and other miscellaneous academic/school related expenses including home tuition fees and school trips etc. The Second Party voluntarily wishes to pay a monthly maintenance amount of Rs. 15,000/- (Rupees Fifteen Thousand only) every month to the bank account of Master Advay Das in order to meet the child's personal daily expenses

such as food, clothing and other co-curricular needs. It is further stated by the Second Party that he will increase the said monthly maintenance amount by Rs. 1,500/- (Rupees One Thousand Five Hundred only) after every 1 and half years.

After hearing the learned counsels for the parties and considering the entire aspect of the matter, the order dated 26.11.2019 passed in WP(C) No. 4735/2019 is modified to the extent above.

This order shall be read together with the final order dated 26.11.2019 passed in WP(C) No. 4735/2019.

With the above observation and direction, this Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant