

THE HIGH COURT OF TRIPURA
AGARTALA

Mat. App. No. 13 of 2013

Sri Ratan Rabi Das,
son of Narayan Rabi Das,
resident of Kishoreganj, P.S. Kakraban, Udaipur,
Dist: Gomti, Tripura

.....Petitioner

- VERSUS -

1. Smt. Ratna Sen(Saha),
wife of Sri Joy Kumar Saha,
daughter of Sri Radha Ballab Sen,
at present, care of : Sri Dilip Das, East Palatana, P.S. Kakraban, Udaipur,
Dist: Gomti, Tripura
2. Sri Radha Ballab Sen,
son of Khagendra Sen,
of East Palatana, P.S. Kakraban, Sub-Division: Udaipur, Dist: Gomti,
Tripura

.....Respondents

B E F O R E
THE HON'BLE MR. JUSTICE U. B. SAHA
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner	: Mr. A. Bhowmik, Advocate.
For the respondents	: Mr. B. Choudhury, Advocate.
Date of hearing & delivery of judgment and order	: 15.09.2015
Whether fit for reporting	: NO

Judgment and Order (Oral)

(Talapatra.J)

Heard Mr. A. Bhowmik, learned counsel
appearing for the appellant as well as Mr. B. Choudhury,
learned counsel appearing for the respondents.

[2] This is an appeal against the order dated 18.03.2013 delivered in Civil Misc.(GC) No. 06 of 2012 by the Judge, Family Court, Udaipur, South Tripura. In the said petition being Civil Misc.(GC) No. 06 of 2012, the appellant herein sought custody of his minor son, namely, Lab Rabi Das. The petition was dismissed by the order dated 18.03.2013 on the ground that the minor son did not attain the age of 7 years for granting custody in favour of the father taking out him from the custody of the mother and till the age of 7 years, the mother remains the natural guardian.

[3] There had been attempts by this Court to familiarize the minor son with the father in a manner so that the confidence in the father, the appellant herein, is enhanced and the Court may consider of granting custody of the minor son to the appellant on appreciating relevant factors.

[4] There had been several attempts by the Principal Counsellor, Family Court, Udaipur, South Tripura in terms of the order dated 30.04.2014.

[5] Later on, the Principal Counsellor, Family Court filed several reports on observing the attitude of the minor son. In one of such reports dated 24.06.2014, the Principal

Counsellor Family Court, Udaipur, South Tripura has recorded her observation in the following terms:

“ till date I have found the minor boy not at all interested to even look at his father”.

[6] Mr. Bhowmik, learned counsel appearing for the appellant has candidly submitted that unless the relation between the appellant and his son is developed, the custody as sought may not be proper looking at the welfare of the minor son.

[7] We appreciate the fairness of the learned ounsel appearing for the appellant. But Mr. Bhowmik, learned counsel insisted for visitation rights of the appellant in the alternative.

[8] Mr. Choudhury, learned counsel appearing for the respondent wife did not raise objection to such prayer and he has candidly stated that the father be always given the right to visit his son and to take all actions for welfare of his son even though he is not given the custody of his son.

[9] Having regard to the proposition as advanced by the learned counsel, we must record that there is a consensus as to the visitation right of the father, the appellant herein. Accordingly, we direct the respondent, Smt. Ratna Sen (Saha) wife of Sri Joy Kumar Saha to

produce the minor son, namely, Lab Rabi Das, who is now staying in the residence of the respondent's father on the first and third Saturday of every month at 4.30 pm in the Palatana Bazaar Area Anganwadi Centre and allow the appellant Sri Ratan Rabi Das to interact with the minor son for about an hour. It is made clear that before the fall of the darkness the appellant shall leave the custody of the minor son with the respondent without fail.

[10] The appellant is cautioned that under no circumstances he shall annoy the minor son. However, the respondent shall allow the appellant to give her son gifts, reading materials, food etc., to express his affection to his son. During that period the respondent shall avoid being present so that the appellant and his son may interact freely.

[11] If there is any difficulty like illness of the minor son on the appointed days of visitation, it would be the duty of the respondent to inform the appellant about such development. But again it is cautioned that the appellant shall not take the advantage of his right as granted by this Court at any point of time. If there is any difficulty as to the right of the re-visitation, the parties would be at liberty to approach the Family Court, Udaipur, Gomti, Tripura for an appropriate order.

[12] In terms of the above, this appeal stands disposed of.

[13] Copies of this order be sent to the parties through their engaged counsel.

JUDGE

JUDGE

A.Ghosh.