

3rd November, 2020
(D/L No.1)
(SKB)

C.O. 1164 of 2020
With
CAN 1 of 2020 (CAN 4888 of 2020)
With
C.O. 642 of 2019
 (Via Video Conference)

Amit Poddar
Versus
Smt. Ritu Poddar

Mr. Mainak Bose,
Mrs. Sweetea Gandhi Murgai
... for the petitioner in C.O. 642 of 2019
 & C.O. 1164 of 2020

Mr. Aniruddha Chatterjee,
Mr. Saptarshi Kr. Mal
... for the respondent in C.O. 642 of 2019
 & C.O. 1164 of 2020

Re: **C.O. 642 of 2019**

This revisional application is against an order dated 28th January, 2019 by the father of a 13 year old boy who seeks custody of his child.

The petitioner is aggrieved by the order of the learned Court below in relation to the visitation rights which was to be four hours every Saturday at a neutral place/shopping mall. The learned court below fixed South City Mall as a venue for the four hours visitation on every Saturday from 12-00 in the noon till 4-00 p.m. The child was to be accompanied with his grandfather and his mother for the duration of the visitation.

Learned Counsel appearing for the petitioner prays that the order be modified and the petitioner be allowed interim custody of the child and at least the

child be allowed to visit the petitioner/father during the festive season. Counsel submits that the extended custody of the child by the mother/opposite party is causing prejudice to the child.

Learned Counsel for the opposite party/mother of the child places an order of the learned Single Judge dated 28th August, 2020 which contained an interim direction allowing the petitioner to call his son either by video or whatsapp every Sunday at 10 a.m. The grand parents of the child were also allow to speak with the child and the arrangement was to continue for three months or until disposal of the civil revisional application.

On hearing learned Counsel appearing for the parties and on perusing the order passed by the 15th Additional District Judge, Alipore, this Court is of the view that the order does not prejudice the petitioner in any way. The order makes it clear that the allegations levelled against the petitioner were required to be considered.

This Court has been informed that the stage of evidence is almost over before the learned court below. It is relevant to state that the matrimonial suit has been filed by the petitioner/husband against the opposite party/wife in the learned court below. What is more important is that the order impugned is of 28th January, 2019 and almost two years have passed after that. The

order of the learned Single Judge was of 28th August, 2020 which took into account the Pandemic and the petitioner was hence directed to communicate with his son only by way of telephonic/video calls. There has been no change in those circumstances till date. Hence, this Court sees no reason for quashing the order dated 28th August, 2020.

Accordingly, the petitioner will be at liberty to speak with his son twice for two hours every week at mutually acceptable times. The opposite party will not cause any hindrance or obstruction to the son and the petitioner during the calls and the petitioner will have privacy to speak with his son. The direction of the learned court below with regard to physical visitation is accordingly modified until further orders passed by the learned court below.

C.O. 642 of 2019 is disposed of in terms of the above directions.

Re: **C.O. 1164 of 2020**

C.O.1164 of 2020 has been filed for expeditious disposal of the application for permanent custody filed by the petitioner before the learned Court below, it has been submitted by learned Counsel for the petitioner that the concerned Judge has been transferred and there has been no progress in the matter.

Hence, C.O.1164 of 2020 is disposed of with a request to the District Judge at Alipore to ensure that the application filed by the petitioner for permanent custody of the child is expedited to the extent possible in the present circumstances but not beyond 15th January, 2021.

(Moushumi Bhattacharya, J.)