

27.11.2020
Item No.02(S.L)
Ct. No. 23
(Susanta)

(Via Video Conference)

**C.O. 1192 of 2020
With
IA NO: CAN 1/2020**

**Rabi Sankar Ghosh
Vs.
Rin Rin Sen**

Mr. S. N. Chattopadhyay,
Mr. S. S. Mondal,
Mr. A. Chatterjee,
... For the petitioner.

Mrs. Ledia Dasgupta,
.... For the Opposite party.

The revisional application under Article 227 of the Constitution of India is at the instance of the father/petitioner in a proceeding under the Guardians and Wards Act, 1890 being Misc. Case no. 66 of 2017 (Act VIII) pending before the learned District Judge, Barasat, District 24 Parganas (North).

The father in the said proceeding filed an application praying for following reliefs:-

a. "An order allowing the petitioner to know about the physical condition of his son from the opposite party at least once in week;

- b. An order allowing the petitioner to visit the doctor with his son if the situation so arises;***
- c. An order directing the opposite party to take necessary steps as well as necessary formalities so that the petitioner can be able to participate in the parent Teacher meeting at the school;***
- d. An order directing the opposite party to supply the necessary documents for opening Bank Account, Mediclaim and LIC policies for the minor son;”.***

The learned Trial Judge by the order impugned being order no.17 dated September 3, 2019 has dismissed the said application holding that the provision contained in Section 12 of the Guardians and Wards Act, 1890 or any other provision in the said Act does not provide for relief sought for by the petitioner.

The learned District Judge has failed to appreciate the scope of the said Act inasmuch as the welfare and well being of the child is the paramount consideration for Court of Wards.

Ms. Dasgupta, learned advocate appearing on behalf of the mother/opposite party submits that her

client has no objection if the prayer of the father made in the said application is allowed but she adds that her client is not in custody of the birth certificate of the said child.

Mr. Mondal, learned advocate appearing on behalf of the petitioner, disputes such submission of Ms. Dasgupta.

Be that as it may, the mother is emphatically denying the claim of the father that the birth certificate is in her custody. The issue, therefore, being heavily disputed, the mother cannot be directed to supply the copy of the birth certificate of the child to the father. The father, if necessary can get the certified copy of the birth certificate of the child from the appropriate authority.

Ms. Dasgupta fairly submits that her client will provide photocopy of the Aadhar Card of the child to Mr. Mondal within ten days from date.

So far as the access of the father to the child is concerned an application under Section 12 of the said Act was disposed of by the learned Trial Judge vide order no. 5 dated September 6, 2017 by allowing the father to meet his son at **Diamond Plaza Mall** on **every Sunday between 5p.m to 7p.m.**

Mr. Mondal, learned advocate appearing on behalf of the father complains that his client is not getting access of the child in terms of the said order.

Ms. Dasgupta, learned advocate appearing on behalf of the mother submits that her client has no objection in giving the father access to the minor but in view of the outbreak of COVID-19 pandemic, visitation of the child at Diamond Plaza Mall is not safe for the health of the minor.

I find substance in the submission of Ms. Dasgupta, but access of the father to his son cannot be totally denied.

The father is entitled to meet his minor son viz. Upam Ghosh at premises No. 15/2 Bidyut Chakra Pathagar Road, P.O. Ghughudanga, P.S. Dum Dum, District 24 Parganas (North), Kolkata- 700030, the residence of the mother **on every Sunday between 11.00 a.m. to 12.00 noon.**

Mr. Siddhartha Sankar Mondal, learned advocate for the father and Mr. Avik Bose, learned advocate for the mother will be present at the time of said access.

It is expected that at the time of such access the parties will provide an environment congenial to the welfare and well being of the child.

In the event of any changed circumstances, parties are at liberty to apply before the learned Trial Judge for an appropriate order of visitation to the child.

C.O. 1192 of 2020 is thus disposed of.

The connected application being CAN 1 of 2020 is also disposed of accordingly.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)