

04.02.2021
Court No. 19
Item No.18
CP

C.O. 256 of 2021

Smt. Supriya Dutta & anr.
vs.
Shri Lakshmi Narayan Shaw
(via video conference)

Mr. Rohit Banerjee
Ms. Sananda Ganguli
Mr. Shubradip Roy

....for the petitioners.

Mr. Rajat Dutta

...for the opposite party.

This revisional application has been filed by the grand parents of a baby, namely, Kaavya, being aggrieved by the order dated January 27, 2021, passed in Act VIII Case No. 107 of 2017, by the learned Additional District Judge, 11th Court, Alipore.

By the order impugned, the learned court below directed the minor child to be produced before the learned court on February 6, 2021 from 3 pm to 5 pm positively for visitation by the father and also directed that the father could contact the child by video calling for 10 to 15 minutes every day. Records reveal that before the pandemic situation, on and from 2017 the visitation rights had been granted to the father on every 1st and 3rd Saturday of the month.

The child was to be brought to the court premises for the interaction with the father. Due to the pandemic situation, the father has not been able to visit the child and the opposite party father submits that the order was not complied with. It is also contended that the father has not been able to interact with the child at all.

The learned advocate for the petitioners submits that during the pandemic situation it would not be wise to allow the child to go to the court premises. It is further submitted that the grand father of the child is a hotelier who is working in Medinipur and the grand mother is 60 years old. According to the petitioners, the circumstances would not permit the child to be brought to the court premises on February 6, 2021 between 3 pm to 5 pm.

Mr. Dutta, learned advocate appearing for the father, submits that the visitation order was never complied with. The father did not have any interaction with the child nor had the father been able to speak to the child either over telephone or through video calling.

The opposite party submits that despite there being an order from 2017 onwards to allow the father to meet the child on every 1st and 3rd Saturdays in a month in the court premises, the said order was not

complied with, which led to the filing of the application before the learned court below.

The pandemic situation has been on for a while now. If the father has not been able to see the child in the entire period since 2017 it is unfortunate. The order of the learned court below granting visitation rights has not been challenged before any superior forum.

I do not find any reason to interfere with the order impugned as the learned court having considered the entirety of the situation, has come to a finding that for the ends of justice the child should be at least produced on February 6, 2021 between 3 pm to 5 pm for visitation of the father. The court has also directed that proper protections from Covid-19 shall be taken.

This court gave an option to the petitioners to select a place of their own choice where the father could have an interaction with the child but the petitioners have failed to give any positive answer to such query. They are insistent on the fact that the child should not be allowed to meet the father whereas the original order for visitation has never been challenged or upset.

Under such circumstances, the father being the parent is entitled to visit the child as directed by the learned court below. With regard to future

visitation, the learned court below shall proceed in accordance with law and independently.

With regard to the direction for allowing the father to speak to the child for 10 to 15 minutes everyday, this court finds that a little girl of six years may not be willing to speak every day over the telephone. Thus the frequency of such calls is reduced to twice a week between 8 pm to 9 pm in the evening.

This court has not gone into the merits of the claims and counter-claims of the parties. The learned court below will proceed independently and in accordance with law.

The revisional application is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)