

ADITYA BERA VS. AJANTA BERA (PAUL)

(Through Video Conference)

Mr. Susenjit Banik

Mr. Niladri Saha

..for the petitioner

Notices have been handed over to this Court along with the delivery report showing Mr. Avik Basak, learned Advocate on behalf for opposite party in the learned Court below and the opposite party has been served with the notices and a copy of the revisional application.

Despite service, none appears on behalf of the opposite party. The notices and delivery report are taken on record.

As the matter relates to visitation right and there is some urgency involved, this Court passed an order that the matter would be taken up ex parte if none appeared on the returnable date. As none appears on behalf of the opposite party despite service, this matter is taken up in absence of the opposite party.

This revisional application has been filed against an order dated September 19, 2019 passed by the learned Additional District Judge, 1st Court, Barasat,

District North 24 Parganas in Act VIII Misc. Case No. 235 of 2015.

The petitioner is aggrieved because an application under Section 12 of the said Act for visitation rights was disposed of by allowing just one visit to the father.

It is submitted that the proposed visitation on September 29, 2019 between 4-00 p.m. to 6-00 p.m. had been executed and the visitation had taken place without any difficulty. The father has challenged the said order on the ground that the application could not have been disposed of by granting only one day's visit but a permanent arrangement should have been made.

I find from the order impugned, that the learned Court below has not discussed as to why no further interaction between the father and the child could be allowed. Neither does it appear that the said visit was an interim arrangement in order to enable the Court to assess the situation and then pass further directions for visitation.

Under such circumstances, the order impugned is quashed and set aside.

The matter is remanded back to the learned Court below for fresh hearing.

The petitioner is directed to file a report before the learned court below in the form of an affidavit

incorporating the result of the earlier visitation and how the child interacted with the father. It is further submitted that the opposite party had permitted the father to visit the child few months earlier but such visitation has now being disallowed. The subsequent events may also be incorporated in the report to be filed in the learned Court below. In addition to visitation right, the petitioner may also seek orders from the learned Court below to be able to speak to the child over Video call and such prayer shall also be disposed of on the date fixed by the learned Court below.

The petitioner shall communicate this order to the opposite party and also the learned Advocate for the opposite party.

The application for Video Call and the report as directed above, shall be filed by the petitioner upon service of advance copies upon the opposite party.

The learned Court below shall dispose of the applications in accordance with law on the basis of judicial decisions operating in the field and also upon taking into consideration the facts of the case. If necessary, the learned Court below may also interact with the child over Video conference. The best interest of the child shall be taken into consideration.

This revisional application is disposed of.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar,J.)