

18.05.2022
Item No.9
Ct. No.7
CHC
(disposed of)

C.O.1095 of 2022

**Kamini Mukherjee
Vs.
Tamaghna Mukherjee**

Mr. Sukanta Chakraborty,
Mr. Zuber Ahmed
...for the petitioner

The subject-matter of challenge in this revisional application is against the order dated 2nd March, 2022, passed by learned District Judge, Hooghly, at Chinsurah, in Act VIII Case No. 21 of 2022.

Admittedly, petitioner is the mother. The opposite party in connection with an application under Section 25 of the Guardian and Wards Act, has filed a separate application under Section 12 of the Act, praying for interim custody together with visitation right of child, born out of wedlock of the petitioner and the opposite party.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that learned court below has erroneously passed an order directing the mother/petitioner to produce child in the interest of hearing of the application under Section 12 of the Act praying for interim custody together with visitation right of the opposite party/father.

Mr. Chakraborty thus contends that without passing necessary order either in connection with interim custody of the child, or in connection with visitation right of the child, the mother/petitioner ought not to have been directed to produce the child.

There is nothing disclosed in the submission of Mr. Chakraborty that mother/petitioner is against the proposed visitation right of father/opposite party.

The one and only contention thus expressed by the petitioner is against the impugned order directing the petitioner/mother to produce the child in the interest of hearing of a petition praying for interim custody together with visitation right of the opposite party/father.

No other point is raised requiring address by this Court.

In view of the nature of order proposed to be made in this case, no prior notice is considered to be necessary.

Service upon the opposite party stands dispensed with.

The impugned order is thus modified directing the court below to first take up the application under Section 12 of the Guardian and Wards Act for decision of proposed visitation right of the opposite party/father together with interim custody if there be any.

The petitioner/mother need not be pursued for production of her child at the time of hearing of pending application under Section 12 of the Guardian and Wards Act.

It is, however, clarified that this would not prevent the court below to stress upon the production of the child on any subsequent date in the interest of felicitating an appropriate decision pertaining to the prayer for interim custody of the child.

The petitioner is directed to make communication of this order to the learned court below as well as to the opposite party and his learned advocate in the court below.

With this observation/direction, the revisional application stands disposed of.

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

(Subhasis Dasgupta, J.)