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C.O. 2971 of 2022

**Sri Subhashis Dasgupta
Vs
Smt. Sarmishtha Sengupta**

Mr. Partha Pratim Roy,
Mr. Tanmoy Mukherjee, ... For the petitioner.

Mr. Sounak Bera, ... For the opposite party.

While challenging orders dated 13th July, 2022, 28th July 2022 and 26th August, 2022, passed in Misc Case No. 9 of 2022 arising out of Mat Suit No. 420 of 2021, Mr. Partha Pratim Roy, learned advocate appearing for the petitioner/father, submits that only once, i.e., on 9th February, 2022 being the birthday of son, the petitioner father was allowed to exercise his visitation right, vide order dated 31st January, 2022 passed in Misc Case No. 11 of 2021.

Admittedly, a direction has been passed upon the opposite parties involved in this case requiring them to set forth the modality so that there could be effective visitation right ensured, pending decision of the Mat suit. Further admitted position is that no modality, as required to be furnished by the parties, has yet been furnished before the Court below.

Mr. Roy without addressing upon the merits of the case, if there be any, proposes for a direction so

that during the ensuing festivity period, the father petitioner may exercise his visitation right in respect of his son/child at least for few days during Durga Puja.

Per contra, Mr. Sounak Bera, learned advocate appearing for the opposite party/wife submits that the son is four and a half years old, and presently he is in the custody of his mother.

There is a matrimonial differences between the parties, which has culminated in Mat suit No. 430 of 2022. That suit is still pending.

It is submitted by the learned advocate for the opposite party that there is chance of creating commotion at the time of ensuring visitation right during the festivity time, and further there is reasonable apprehension on the part of the wife/mother that the son/child may be taken away by the petitioner/father from her custody under the guise of an order to have visitation right.

Having considered the submission of both sides, it appears that prayer to have visitation right of petitioner/father during festivity period, i.e., in particular during the Durga Puja period, needs consideration.

The visitation right of a father is always unqualified and independent one, irrespective of matrimonial differences between the parties.

Festivity period is to commence shortly.

Since only once i.e., on the birthday of the son/child (09.02.2022), the petitioner father had opportunity to have his visitation rights, in a situation like this, if at least for one day during Durga Puja period, the child is presented to ensure visitation right of father at an independent place having good ambience, that will not cause any prejudice to either of the parties to this case.

The revisional application is thus disposed of directing the opposite party to produce the minor child at City Centre I, Salt Lake, at 12.00 noon on the day of Saptami i.e. 02.10.2022 for 90 minutes to ensure visitation right of the petitioner/father.

It is, however, clarified that petitioner/father will ensure his best co-operation so that there could be an effective visitation right, and quality time may be spent there without creating any commotion. The child thus produced, may not be endeavoured to be taken away by any means, without the order of the Court below.

It is thus desirable that the petitioner/father while meeting with the child at the venue, not be accompanied by others, whose visitation right is not at all considered by this order.

The modality thus sought to be furnished by the court below, may be furnished as expeditiously as

possible, preferably within three weeks after reopening of Puja Vacation of this Court.

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

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)