

THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) NO.36154 OF 2021

Saroj Kumar Behera

.... ***Petitioner***
Mr. S. Udgata, Advocate

-versus-

Debajani Arka @ Behera

.... ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
14.02.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 15th April, 2021 (Annexure-3) passed by learned Judge, Family Court, Sambalpur in I.A. No.03 of 2021 (arising out of C.P. No.13 of 2021), whereby he rejected an application for interim custody of the children.
3. It is submitted by Mr. Udgata, learned counsel for the Petitioner that the Petitioner has filed an application under Section 25 of the Guardians and Wards Act, 1890 for custody of the children, which is registered as C.P. No. 13 of 2021. During pendency of the said application, the Petitioner filed an interim application in I.A. No. 3 of 2021 for interim custody of his children. While rejecting such application vide order dated 15th April, 2021 (Annexure-3), learned Judge, Family Court, Sambalpur directed that the children, namely, Swastika and Satyajit are to remain in the custody of Opposite Party-Wife subject to the order to be passed in the main Guardianship

Proceeding. However, he granted the Petitioner the right to visit the children. It is further submitted that although a right of visit to the children has been granted to the Petitioner, but no terms and condition has been fixed. Thus, such a liberty granted by learned Judge, Family Court, Sambalpur is meaningless. In order to avoid any untoward incident, learned Family Court ought to have fixed the term and conditions of visitation of the children.

4. In course of hearing, Mr. Udgata, learned counsel for the Petitioner submits that interest of justice will be best served, if the Petitioner makes an application for fixing the terms and conditions to visit his children, who are in the custody of Opposite Party-Wife.

5. Taking into consideration the submission made by learned counsel for the Petitioner, this Court disposes of this writ petition with an observation that in the event the Petitioner files an application for fixation of the terms and conditions of visitation of his children within a period of two weeks hence, learned Judge, Family Court, Sambalpur shall do well to consider the same in accordance with law and pass a reasoned order thereon as expeditiously as possible preferably within a period of two months from the date of making such application.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks/ms