

In the High Court at Calcutta
(Civil Revisional Jurisdiction)
Appellate side

S/L No. 101
15.03.2023
Ct-237
(RD)

C.O. 338 of 2023

Debasish Chakraborty.
Vs.
Priyanka Roy Chakraborty

Mr. Tapash K. Bhattacharya, Adv.
Mr. Aviroop Bhattacharya, Adv.
Ms. B.P. Singha Roy, Adv.

.... For the petitioner

Affidavit of service is filed and taken on record.

None appears on behalf of the opposite party.

The order dated 18.01.2023 was challenged in this application, whereby Ld. Additional District Judge , Fast Track Court -I, Bongoan (in charge) North 24 Parganas refused to entertain prayer under Section 151 Civil Procedure Code filed by petitioner/husband for admission of minor ward in Sacred Heart School at Panchann Sarani Road, Jatirmoy Colony post office New Rangia, Siliguri District Darjeeling.

In course of hearing opposite party / mother filed a written objection against the application under Section 151 of the Civil Procedure Code and contended that petitioner/ father did not keep any information about the minor far to speak of providing proper maintenance. Opposite party / mother has further contended that the petitioner/father took a plan to snatch the minor from

the custody of the opposite party/ mother on the plea of admission in the school situated at Siliguri, with an ulterior motive.

Ld. Judge after considering the submission advanced on behalf of the parties, recorded the order that the custody of the child was yet to be adjudicated under Section 25 of the Guardians and wards Act, 1890 in presence of both sides along with an application for interim custody under Section 12 of the Guardians and Wards Act, 1890.

On behalf of the petitioner /husband one arguments was advanced before Ld. Judge that middle class family generally did not allow their wards for imparting education in school situated at village and they always try to give education in eminent school.

It is admitted fact that education of the minor is being imparted in Ghonja Primary School at Gaighata, District North 24 Parganas.

Considering the all facts and circumstances Ld. Judge refused to shift the minor son from Bangaon to Siliguri prior to adjudication of the issue of custody of the minor son under Section 25 of the Guardians and wards Act, 1890. Accordingly, the order stands affirmed.

In the aforesaid view of the matter I do not find any illegality or infirmity in the order no 14 dated 18.01.2023.

However, the petitioner/ father is at liberty to approach the Ld. Trial Court on the issue of better of education of minor son after disposal of application

under Section 25 of the Guardians and wards Act, 1890.

With the aforesaid observation the revision application being no. Co No. 338 of 2023 stand disposed of. No order as to cost.

All parties are directed to act on a server copy of this order downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Bibhas Ranjan De)