

14.03.2023

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**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 689 of 2022

Sri Riju Ray

versus

Smt. Sreekanya Sengupta

Mrs. Shohini Chakraborty

Mr. Intekhab Alam Mina

Ms. Prajaaini Das

... For the petitioner

Mr. Aniruddha Bhattacharya

... for the opposite party

This revisional application has been filed by the petitioner under Article 227 of the Constitution of India challenging order no. 23 dated 18th February, 2022 passed by the learned Additional District Judge, 9th Court, 24-Parganas (South) at Alipore in connection with Act VIII Case No.41 of 2020.

The brief fact of the case is that the petitioner-husband filed an application under Section 25 of the Guardians and Wards Act, 1890 before the learned District Judge at Alipore, 24-Parganas (South) being Act VIII Case No. 41 of 2020. In the said proceeding the petitioner filed an application under Section 12 of the Guardians and Wards Act, 1890 with the prayer for production of the minor child, interim custody of the minor child and injunction restraining the respondent-

wife from removing the minor child from the jurisdiction of the trial Court. By order no.9 dated 21.12.2020 the application under Section 12 of the Act was allowed on consent with a direction upon the respondent-wife to produce the minor son through video conferencing before the petitioner-husband on every Sunday from 11 AM to 12 noon until further orders. The petitioner for modification of the said order filed an application under Section 151 for physical visitation of the minor child. Upon consideration the learned Trial Court formed a schedule for meeting the child physically as well as through video conferencing specifying the days and the time.

Being aggrieved by and dissatisfied with the impugned order the petitioner-husband has preferred the present revisional application.

Mrs Sohini Chakraborty, learned Advocate for the petitioner submits that the application under Section 151 of the Civil Procedure Code was filed for increasing the number of days for physical visitation. However, such prayer of the petitioner was not allowed by the learned Trial Court due to Covid-19 pandemic and it proceeded to fix specific days for physical visitation as well as through video conferencing of the child which requires to be modified since the situation relating to Covid-19 pandemic has improved with the passage of time. In the aforesaid backdrop, she submits for

appropriate order for increasing the number of days of physical visitation by modifying the impugned order of the learned trial Court.

Mr Aniruddha Bhattacharya, learned Advocate for the opposite party, in reply, submits that upon consensus being arrived at by both the sides such schedule was framed by the learned Trial Court for visitation and therefore such order is not at all revisable. He further submits that several litigations are pending by and between the parties and by order dated 16th December, 2022 passed in CRR 1339 of 2020 the dispute has been referred to the Mediation and Conciliation Committee, High Court. Furthermore he submits that since the order was passed in presence of both the sides upon consideration of submissions of the parties, the order need not be interfered with and modified.

Upon perusal of order No.23 dated 18 February 2022 it is found that taking into account the submissions of the learned Advocates of both the sides to allow for visitation and convenience of the parties, the learned Court framed a schedule and allowed the petitioner-husband to meet the minor child every alternative Sundays from 11 AM to 1PM and shifted the date of meeting the child through video conferencing from every Sunday to every Saturdays from 7 PM to 8 PM and also allowed the parents of the petitioner to

meet the minor child through video conferencing on every Saturdays from 7 PM to 8 PM along with the petitioner. Since it is found that after due consideration such schedule has been framed by the learned trial Court keeping the convenience of the parties into account, I do not find any reason to interfere with such order.

With the aforesaid observation, the application being **C.O.689 of 2022** stands dismissed.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

It is however made clear that this order shall not preclude the petitioner from approaching the learned trial Court for modification of the schedule of visitation in the event of change in circumstances only.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)