

Item No. 16
01.09.2023
Court. No. 19
GB

C.O. 1469 of 2023

Sri Davinder Singh
Vs.
Smt. Kuldeep Kaur

*Mr. Partha Pratim Roy,
Mr. Chiranjib Sinha,
Mr. Dyutiman Banerjee*

...for the Petitioner.

Despite service, none appears on behalf of the opposite party. The learned advocate for the opposite party in the learned court below as also the opposite party have been served.

The revisional application arises out of an order dated March 6, 2023 with regard to prayer for interim visitation made by the father.

The couple had two sons. One of them had attained majority. Whether the father could visit his younger son, who was studying in Class-IX at Khalsa English School, Bhowanipore, was to be decided by the court.

The father prayed that the parental grandmother and the father should be allowed to visit Harshinder Singh at regular intervals. The learned court below interacted with the son and found that as the son had witnessed the marital discord between his parents, he did not have love left for the father.

It further appears that the court was of the view that a psychological evaluation of the child was necessary and the father should undertake to pay for such evaluation. No decision was taken on the issue of interim visitation.

In my view, the order suffers from various irregularities;

- a) The court had presumed that the son had apathy for the father and no love left.
- b) The right of a parent and natural guardian to meet the son and interact with the son has to be decided on other settled principles, which the court failed to do.
- c) The court decided the issue on the premise that removal of the son from the mother's custody would be incorrect, although the father had only prayed for interim visitation.
- d) The court not being an expert, was not in a position to decide about psychological evaluation of the son. All that the court was required to do was to decide whether an interim arrangement may be made for the father to meet the son.

This Court is of the view that no useful purpose will be served by keeping the revisional application pending.

Under such circumstances, the order impugned is set aside. The application for interim visitation filed by the petitioner seeking permission to visit Harshinder shall be heard afresh, by applying the settled parameters. The court shall decide whether an interim arrangement allowing the petitioner and the paternal grandmother to meet the child, could be made.

Let the application be heard within a period of two months from the date of communication of this order.

Accordingly, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)