

October 18, 2023
Sl. No.5
Court No.19
s.biswas

CO 2653 of 2023

Srimoyee De (Kar)

vs.

Pinakshi De

Mr. Kamalesh Chandra Saha

Ms. Payel Mitra

Ms. Mishuk Saha

... for the petitioner

This revisional application arises out of an order dated July 18, 2023 passed by the learned Additional District Judge, 3rd Court, Barrackpore, North 24 Parganas in Misc. Case No.214 of 2022.

By the order impugned, the learned court below rejected the application filed by the mother praying for removal of the matter from the ex parte board. According to the learned court, the said application was not supported by an affidavit and the learned court disbelieved that the mother/petitioner was prevented from attending the court for about five months on account of bereavement in the family.

In my view, an application for custody should not be decided ex parte and the other parent should be allowed adequate opportunity to contest the proceedings for the ends of justice. Both the parents have a right to seek custody of the child and an ex parte decision in the matter will deprive the right of a parent.

Under such circumstances, the order dated July 18, 2023 is set aside. The written objection already

filed shall be accepted by the learned court below. The proceedings are at the stage of evidence. Thus, considering the urgency and the time wasted due to delay caused by the petitioner, this court directs the learned Additional District Judge, 3rd Court, Barrackpore, North 24 Parganas, to dispose of the Misc. Case No.214 of 2022 within a period of three months from the next date fixed, without granting unnecessary adjournments to either of the parties.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)