

05 07.12.2023

WPA(H) 76 of 2023

Ct-08

**Nilima Halder
Vs.
The State of West Bengal & Ors.**

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Mr. Anup Mukhopadhyay
Mr. Anirban Saha
... For the Petitioner

Md. Y. Mondal
... For the Respondent nos. 5 to 8

Mr. Anirban Ray, Ld. G.P
Mr. Debabrata Chatterjee
Ms. Amrita Panja Moullick
... For the State

1. We have heard the learned counsel appearing for the parties.

2. The grand-mother of the missing child is the applicant here.

3. Md. Y. Mondal, learned counsel representing the respondent nos. 5 to 8, submits that the child is presently in custody of his mother, Srabanti Halder and she is presently residing with respondent nos. 5. Learned counsel submits that if any direction is given the above respondents are in a position to produce the minor child before the appropriate authority.

4. Mr. Anirban Ray, learned Government Pleader, submits that Srabanti had filed a case against her husband and in-laws and an F.I.R has been registered under Section 498A, 406 and

34 of the Indian Penal Code and charge-sheet has been filed in that proceeding.

5. We feel notwithstanding any difference between the husband and wife, the grand-parents should have an access to the child. The child also requires love and affection of the grand-parents. In view of the fact that the father has not filed any application for custody of the child, presumably because he is mentally upset it may not be proper to decide the custody of the child in this proceeding. However, this observation shall not prevent the father to seek appropriate legal remedies before the appropriate forum for custody of the child. In view of the fact that the child is presently 7 years of age and residing with her mother we do not want to disturb the custody of the child. Srabanti is presently residing with the respondent no. 5. We feel that the grand-parents and the father of the child should be given access to the child. Hence, we direct Srabanti to produce the child before the SDLSC, Baruipur on alternate Sundays at 10.00 a.m till 12.00 noon.

6. We clarify that for the month of December 2023, the child shall be produced on 10th December and 24th December, 2023 and

thereafter on alternate Sundays.

7. The learned Judge-in-Charge of SDLSC, Baruipur shall ensure that the father and the grand-parents are allowed access to the child during such visit. No untoward incident should take place during such visit. Parties are directed to behave in a responsible manner.

8. The Officer-in-Charge must ensure that the child is produced in terms of this order.

9. We have interacted with the grand-mother of the child who is personally present in court today and is agreeable to resolve the dispute through mediation. Although, Srabanti is not made a party it is a fact that she is at present residing with Anirban.

10. We also request the Chairman, DLSA, South 24 Parganas, to appoint a Mediator with experience and expertise in the mean time to resolve the dispute amicably. The parties are directed to cooperate with the learned mediator in all respect and if necessary, the minor child shall be produced by Srabanti before the learned mediator, as per the direction of the learned Mediator.

11. The Member Secretary, Mediation & Conciliation Committee, High Court, Calcutta shall immediately communicate this order to the

Chairman, DLSA, South 24 Parganas for information and doing the needful.

12. This arrangement shall continue for a period of four months or any order is passed in a civil proceeding for custody of the child or any settlement arrived in mediation whichever is earlier.

13. With the above direction, WPA(H) 76 of 2023 stands disposed of.

14. However, there shall be no order as to costs.

15. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar ,J.)

(Soumen Sen, J.)

