

15.01.2024
SI No.9
Court No.8
(gc)

WPA(H) 1 of 2024

Arup Das
Vs.
The State of West Bengal & Ors.

Mr. Anjan Bhattacharya,
... for the Petitioner.
Mr. Sanjib Kumar Mukhopadhyay,
Ms. P. Roy,
Ms. Nargish Parveen
...for the Private Respondent.
Mr. Debabrata Chakraborty, APP.
Ms. Amrita Panja Moulick
... for the State.

1. The father is the applicant. He filed an application on the allegation that the mother of daughter had forcefully taken away the child from the custody of the father. It appears that the mother of the minor had initiated a proceeding under Section 97 of the Cr.P.C. on which an order was passed by the learned Sub-Divisional Magistrate, Barasat (Sadar), North 24 Parganas directing the O.C., Ashokenagar P.S., North 24-Parganas to enquire into the matter against the opposite party member on searching of the opposite party's address for recovery of the petitioner's minor daughter aged about 5 years and submit reports before the learned Court.
2. Aggrieved by the said order the present petitioner along with his mother has filed a

criminal revision. At the admission stage, an order of limited stay was granted. The said order of stay was limited upto 15th July, 2023 and thereafter not extended although an application for extension of interim order was filed on 31st July, 2023. It appears that on 19th December, 2023, the interim order was not extended. In the meantime, the mother filed an application for custody of the child and vacating of the interim order. In the event the custody of the child was taken by the mother during the pendency of the civil revisional application, in our view, it would be proper for the petitioner to approach the revisional Court for the reliefs claimed here as it appears that the interim order was not extended after August, 2023 and during this period, the girl appears to be taken into custody by the mother.

3. The Officer-in-Charge, Ashoknagar P.S. in the report dated 11th January, 2024 has stated that during his interaction with the minor, the minor has expressed her desire to stay with her mother and not willing to go to her father. The minor is presently under the custody of the mother.

4. With the aforesaid observation, the habeas corpus petition is disposed of.
5. However, there shall be no order as to costs.
6. The report filed by the Officer-in-Charge, Ashoknagar P.S. dated 11th January, 2024 is kept with the record.
7. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)