

Item No.3
04.04.2024
Court. No. 19
GB

C.O. 1930 of 2023

Mayur Agarwal
Vs.
Swati Agarwal

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

...for the Petitioner.

*Mr. Debjit Mukherjee,
Mr. Rishav Singh,
Ms. Khusi Gupta,
Mr. Soumalya Dutta*

...for the Opposite Party.

The revisional application arises out of an order dated April 3, 2023, passed by the learned Additional District Judge, 13th Court at Alipore.

By the order impugned, the learned court fixed hearing of an application under Section 45 of the Guardian and Wards Act. The petitioner, who is the father is aggrieved because an earlier application for repatriation of the child to the father and/or interim custody of the child to the father had been kept pending since long.

According to the father/petitioner, as the mother was not honouring the arrangement of interim visitation made by the learned court, two applications were filed. One, to send the mother to civil prison for violation of the order of court and the other for interim custody of the child to the father during the pendency of the application.

This Court is of the view that the application of the father which relates to interim custody should be disposed of first before any other application, strictly in accordance with

law and independently. This Court is not inclined to adjudicate upon the claims and counter-claims of the parties with regard to the allegation of violation of the order of court. The learned court shall decide the same on evidence. The parties will be entitled to adduce both oral and documentary evidence in respect of such allegation.

It is directed that the application dated January 17, 2023, which is at page 99 of the revisional application and marked as Annexure-G, should be disposed of within a month from the next date fixed. Thereafter, the other pending applications should be disposed of expeditiously including the Act VIII Case No.135 of 2021. As this is a matter with regard to custody of the child, expeditious disposal would enure to the benefit of the parties. Hence, the entire proceeding before the learned court should be disposed of within the next six months.

With regard to the allegation of non-payment of maintenance, etc., this Court has not expressed any view. The parties are at liberty to proceed as per law in the appropriate forum. Till the disposal of the afore-mentioned application dated January 17, 2023, the interim visitation arrangement as directed by the court on Sundays between 4 p.m. to 6 p.m. in any play zone of a mall in the locality, shall continue.

Accordingly, the revisional application is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)