

March 20, 2024  
Sl. No.23 & 24  
Court No.19  
s.biswas

CO 2644 of 2023  
With  
CAN 1 of 2024  
AND  
CO 816 of 2023  
*Ankana Moitra*  
vs.  
*Santanu Moitra*

Mr. Probal Kr. Mukherjee, Sr. Adv.  
Mr. Debanik Banerjee  
Mr. Steen S. Biswas  
Mr. Rajib Ghosh

... for the petitioner

Mr. Shiv Shankar Banerjee  
Ms. Sohini Adhikari  
Ms. Munmun Tewary  
Mr. Tanmoy Mukherjee

.... For the opposite party

In re: CO 816 of 2023

1. This revisional application has been filed challenging an order dated March 24, 2022 passed by the learned Additional District Judge, 13<sup>th</sup> Court, Alipore, South 24 Parganas, in Misc. Case No.331 of 2021. Misc. Case No. 331 of 2021 arose out of Mat. Suit No.3076 of 2021.
2. By the order impugned, an application dated February 2, 2022 filed by the petitioner/mother for repatriation of the child to her own house was rejected. The court while dealing with such issue, had made series of observations with regard to mental health of the child and the conduct of the child, when the issue of meeting his mother cropped up.

3. Mr. Mukherjee, learned senior advocate appearing for the petitioner, submits that these observations would be a part of the records and may ultimately affect the parties as well as the well-being of the child in future. It is further submitted that the learned court should have couched these observations in a more elegant language.
4. This court finds that the learned judge while acknowledging the role of the mother and the importance of the presence of the mother in the child's life, refused to repatriate the child to the mother on the ground that the child had expressed fear when he was confronted with a situation when he would have to meet his mother. The court found that forcing the child would cause a dent and a scar. Therefore, taking into consideration the psychological impact which was observed by the court, the order was passed.
5. This court is of the view that the said order should be restricted to the observation at the relevant point of time with regard to the child's reaction when the issue with regard to living with his mother had been taken into consideration. The order cannot be treated as an observation on the conduct of the parties, especially the mother

and the child. The particular incident on which this observation was made, cannot be treated as a continuing issuing. The order had attained finality at the relevant point of time and the observation made therein shall not prejudice any other proceeding between the parties. There can always be scope for improvement in the relationship.

6. Accordingly, CO 816 of 2023 stands disposed of. The order impugned shall not be used by the opposite in any proceeding for future reference.

In re: CO 2644 of 2023

7. This revisional application arises out of an order dated April 26, 2023, passed by the learned Additional District Judge, 4<sup>th</sup> Court, Barasat, North 24 Parganas, in Act VIII Case No.31 of 2022.
8. By the order impugned, the learned judge permitted the mother/petitioner to meet the child on May 21, 2023 at New Town Business Club. The order was challenged on the ground that the visitation was not only inadequate, but also not in consonance with the right of the mother to visit her own child on a regular basis.
9. Mr. Mukherjee, learned senior advocate appearing for the petitioner/mother, submits

that the mother has a right to be involved in the day to day development and progress of the child. She has also a right to meet her child and contact him on a regular basis, even if the child resides with the father.

10. On the first occasion, this court had appointed a learned special officer to facilitate the meetings between the mother and the child under her supervision. The learned special officer, an experienced Advocate of this court, was directed to monitor the interaction between the mother and the child at Salt Lake City Centre. This court had directed that the interaction between the parties would commence from September 2, 2023 and continue up to October 1, 2023 on every Saturday between 4:30 p.m. and 5:30 p.m. and on every Sunday between 11 a.m. and 1: 30 p.m. This was a test for this court to understand whether the learned trial judge had erred in only allowing one day's visitation in the facts and circumstances of this case.

11. The learned Special Officer filed a report before this court on September 8, 2023, expressing her inability to monitor and supervise any interaction between the mother and the child. It was reported that the child was crying profusely and begged her to let him go without any

interaction with his mother. The observation of the learned special officer was that the child was in trauma.

12. Upon considering such report, this court had no other option, but to discharge the learned special officer. The revisional application was kept pending but further visitations were not directed.

13. As it is informed to this court that the child harbours some kind of trauma and anxiety, when it comes to meeting his mother, this court is not inclined to force the child to meet his mother, at this stage.

14. It is informed that the Act VIII Case No.31 of 2022 is pending along with some interlocutory applications. However, considering the plight of the mother, the court makes the following directions:

- a) Weekly information by email or whatsapp shall be sent by the father to the mother with regard to the activities, education and medical/health condition of the child etc.;
- b) Periodical photographs of the child shall be shared with the mother;
- c) The mother shall be entitled to write a letter once a month to the child, which the father will ensure is read out to the child;

d) On every Sunday, the father will take the child to Salt Lake, City Centre-I and wait with the child at a play area or a restaurant, intimating the time and location, so that the mother can see the child at least from a distance.

15. The attempt of this court is only to try and break the ice and minimise the anti-mother feeling that the child has at the moment.

16. However, this court expects that the situation will improve and the parties will cooperate and the mother may in future approach the learned trial court for further reliefs and modification of this arrangement.

17. Accordingly, the revisional application being CO 2644 of 2023 and the application being CAN 1 of 2024 stand disposed of.

18. The learned courts before which the respective suits are pending, are requested to make an endeavour to dispose of both the suits expeditiously.

**(Shampa Sarkar, J.)**