

14.02.2025
Item Nos. 15
AN/Ct. No.05

CO 270 of 2025

Sunita Sharma
vs.
Susant Vyas @ Sushant Vyas ors.

Mr. Shaswat Nayak
Ms. Aafreen Parveen
Ms. Aafreen Begum
Mr. Aurin Chakraborty

... for the petitioner

Mr. Pratip Mukherjee
Mr. Arpit Agarwal

... for the opposite parties

1. The present revisional application has been filed, inter alia, challenging the order no. 12 dated 09.01.2025 passed by the learned Additional District Judge, 5th Court, Howrah in Misc. Case No. 141 of 2023 whereby the learned Judge had directed production of the minor (boy child) aged about 12 years before the learned Court on 05.02.2025.
2. Mr. Nayak, learned advocate for the petitioner submits that the petitioner is not interested to withhold the production of the minor child before the learned Court. The only objection is that considering the tender age, the child should not be directed to be produced before the learned Court. On the contrary, he submits that this Court may vary with the aforesaid direction so as to permit the learned Judge to interact with the child.
3. He submits that in the interregnum by reasons of change of advocates, the petitioner was unable to take

appropriate steps for filing written objection to the petition dated 29th November, 2024 in time, and further since the minor was not produced on 05.02.2025 the matter was directed to be heard as *ex parte* by the order dated 05.02.2025.

4. By drawing attention of this Court to the Order No. 14 dated 14.02.2025 he submits that although an application was filed by the petitioner for vacating of the order dated 05.02.2025 whereby the misc. case was directed to be heard *ex parte*, the learned Judge had while dismissing such application, directed the matter to be taken up for further consideration as an *ex parte* matter on 17.02.2025. Mr. Nayak also submits that having regard to the order passed on 14.02.2025, unless this Court appropriately modifies such order by permitting the petitioner to participate in such proceedings, the petitioner shall suffer irreparable loss and prejudice.
5. After having heard Mr. Nayak, and considering the materials on record, this Court had directed service of the aforesaid revisional application upon the opposite parties. Mr. Mukherjee, learned counsel appears in Court today for the opposite parties and accepts service of the copy of the revisional application. He would submit that the order dated 09.01.2025 passed by the learned Court only directs the minor to be present in Court for the purpose of interaction. The petitioner did

not comply with such direction. Having regard thereto, no interference is called for. Insofar the direction dated 14.02.2025 is concerned, he would submit that there is no challenge to such order. However, if this Court is of the view that an opportunity should be afforded to the petitioner, he has instructions not to stand in the way. This Court may proceed to pass such order as this Court may deem fit and proper.

6. Having regard to the submissions made by the learned counsel for the parties, it appears that the present application is confined to the challenge of the order dated 09.01.2025. By such order, the learned Judge has directed the minor child to be produced before the learned Court. I have been able to ascertain that the minor child has not been produced till date. Be that as it may, I am of the view that there cannot be any impediment in the learned Court interacting with the minor.
7. Considering the welfare and the tender age of the minor, it is advisable that the learned Judge interacts with the minor in the Chamber both in presence of the petitioner and as well as the opposite party no.1, and as also in absence of the opposite party no.1, if the learned Court considers it fit.
8. Upon ascertaining the convenience of the petitioner and that of the minor child, this Court directs the petitioner be present with the minor before the learned Additional

District Judge, 5th Court, Howrah in the Chamber on 01.03.2025 at 1.30 P.M., for interaction. The opposite party no.1 shall also be present during such interaction. Considering the fact that the minor child would be present at Howrah, the learned Judge may permit visitation of the minor by the opposite party no.1 on the following day in the manner the learned Court may deem it fit and proper. The learned Court may also consider and pass appropriate orders granting the right of visitation to the paternal grand-parents of the minor so that they may get an opportunity to interact with the minor in course of the visitation, as may be allowed. The learned Court may also in the facts of the case, obtain appropriate indemnity in the form of affidavit of undertaking from the opposite party no.1.

9. Insofar as the order dated 14.02.2025 is concerned, Mr. Mukherjee at this stage, would submit that they do not wish to object to the petitioner's filing written objection as they do not wish to proceed ex parte.
10. Having regard thereto, on consent of the parties, the order dated 14.02.2025 is set aside by treating the same to be part of the challenge made in this petition. Considering the fact that written objections have already been filed by the petitioner, the learned Court is directed to accept the same subject to such terms as the learned Court may deem fit and proper to impose.

The above direction is being passed to ensure both the parties get reasonable opportunity to appropriately represent their respective case.

11. With the above observations and directions, the instant revisional application stands disposed of, however, without any order as to costs.

12. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Raja Basu Chowdhury, J.)