

AD-40  
Ct No.16  
28.04.2025  
TN

CPAN 538 of 2025  
in  
FAT 18 of 2024  
IA No: CAN 1 of 2024

Smt. Kasturi Gangopadhyay  
Vs.  
Sandipta Gangopadhyay

Mr. Rabindra Kumar Jaiswal,  
Ms. Debolina Bhar

....for the applicant/petitioner

Mr. Shiv Mangal Singh

...for the alleged contemnor

1. Affidavits-of-service filed today be kept on record.
2. Learned counsel appearing for the alleged contemnor submits that on the basis of the impression given by the appellant/mother to the child, who is twelve years old, that the petitioner/mother would not have any objection if the child went to Mumbai to see her father, the child was taken to Mumbai to her father, the alleged contemnor.
3. However, the child has, since, returned from Mumbai.
4. It is pointed out that barring two or three occasions, the visitation rights are being honoured by the child being taken to the designated place of visitation and the petitioner/mother has also been having such

visitation of the child even after such dates on which the child was not taken to the venue of visitation.

5. Learned counsel for the petitioner submits that in view of the disputed position of facts, instead of delving into the question of contempt, for the ends of justice, the appeal itself be taken up for hearing. In view of the fact that whatever might have happened in-between, it would be difficult to decide or attribute faults to either of the parties, since such exercise will ultimately boil down to averments made on oath versus oath. Even otherwise, since the alleged contemnor has since been affording visitation rights to the petitioner/mother, after the two or three dates on which such visitation did not happen, and in view of the fair submission of the petitioner, we are loathe to keep the contempt application pending unnecessarily.
6. Accordingly, CPAN 538 of 2025 is disposed of in the light of the above observations.
7. We find from the previous orders passed in connection with the appeal that the appeal had been taken up for passing orders on several occasions and interim orders had been passed previously. As such, we deem that the appeal stands admitted.
8. Since a miscellaneous appeal is required to be preferred against an order of the nature as impugned herein, we direct the appeal to be re-classified as a first miscellaneous appeal and an FMAT number to be allotted accordingly by the office.

9. Such exercise shall be concluded within a week from date.
10. The appeal be listed for hearing on May 08, 2025 under the appropriate heading.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)