

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

C.O. 1879 of 2025

Dr. Agnidipa Das

VS.

Ranajoy Dutta

For the Petitioner : Mr. Partha Pratim Ray
Mr. Srijib Chakraborty
Mr. Abir Lal Chakraborti
..... advocates

For the Opposite Party : Mr. Kallol Basu
Ms. Sohini Chakraborty
Mr. Bratin Kumar Dey
Mr. Samik Sarkar
.... advocates

Heard on : 22.05.2025 and 23.05.2025

Delivered on : 23.05.2025

Hiranmay Bhattacharyya, J.:-

1. This application under Article 227 of the Constitution of India is at the instance of the mother of a minor girl and is directed against an order being no. 60 dated May 17, 2025 passed by the learned Additional District Judge 14th Court, Alipore, District-24 Pgs (S) in Act VIII case No. 176 of 2022.
2. By the order impugned, the learned Additional District Judge passed certain directions with regard to temporary custody of the minor daughter on an application filed by the father-opposite party herein.

3. Out of the wedlock between the parties, a girl child namely Arya Dutta was born on July 2, 2017. A proceeding under the Guardians and Wards Act was initiated at the instance of the father-opposite party herein before the learned District Judge, Alipore , 24 Pgs (S) being Act VIII case no. 176 of 2022. The mother-petitioner is contesting the said proceeding. The minor is presently residing with her mother and the father has access to the daughter through video conferencing thrice a week as well as temporary custody of the daughter for a day every week as well as further visitation rights during festivals.
4. In the Act VIII Case, the opposite party-father has filed an application under Section 151 of the Code of Civil Procedure praying for an order allowing him to have temporary custody of the minor daughter for fifteen days during summer vacation i.e., 15.05.2025 to 30.05.2025. The mother-petitioner contested the said application by filing a written objection. The Learned Additional District Judge granted temporary custody of the minor daughter Arya from 22.05.2025 till 28.05.2025 to the father-opposite party.
5. Being aggrieved by the said order the mother has approached this Court.
6. Mr. Partha Pratim Ray, learned advocate appearing for the mother drew the attention of the Court to an order dated 13.09.2022 in a Habeas Corpus petition being WPA (H) 55 of 2022, in support of his contention that the Hon'ble Division Bench directed the father to hand over the custody of the child to the mother at her residence. Mr. Ray submits that only on one occasion the minor daughter was allowed to stay with the father for a period of three days on account of a wedding ceremony. Mr. Ray further submits that the learned Judge has specifically recorded in the impugned order that the minor has expressed her reservation for staying with the father and after returning such a finding the learned Additional District Judge ought not to have allowed temporary custody of minor daughter to the father opposite party for a period of seven days. He further submits that considering the age of the minor daughter the order allowing the minor to stay with the father

for a period of seven days calls for interference as the father stays alone at his residence.

7. Per contra Mr. Kallol Bose learned Advocate appearing for the opposite party submits that the father is entitled to get temporary custody during holidays. He submits that the grand-father and grand-mother shall also stay with their grand-daughter Arya during the period of temporary custody of the minor Arya. He submits that the learned Additional District Judge after interacting with the minor has passed the order impugned and this court should be slow in interfering with such order.
8. Heard the learned advocates for the parties and perused the materials placed
9. After going through the order dated 13.09.2022 passed in WPA (H) 55 of 2022 this court finds that the Hon'ble Division Bench directed the mother to provide access through video conferencing on every Monday, Wednesday and Friday to the father for conversation and interaction with the child during the period from 8 PM to 9 PM. The father-opposite party was also given liberty to take the child on every Sunday from the residence of the mother at 11 AM and drop her at school at 7 AM on Monday.
10. Record reveals that a co-ordinate bench by an order dated 9th June 2023 passed in C.O. No. 1632 of 2023 allowed the father to take the child on Saturday with a further direction that the child will be with the father till Monday evening. It further appears from the said order that the co-ordinate bench interacted with the minor to ascertain the welfare of the child and it was recorded in the said order that the child wants the company of both her parents.
11. It appears from the impugned order, that the learned Additional District Judge after hearing both the sides felt it necessary to interact with the minor daughter Arya before passing any order on the application under Section 151 of the Code of Civil Procedure. The learned Judge interacted with the minor inside his chamber and the learned Judge found the minor

to be intelligent. The learned Judge also noted that the minor is staying with her father overnight once in every week since 2022 and the maximum period during which the minor stayed with her father at a stretch is for three days when she visited Bardhaman to attend the marriage ceremony of a close relative at the native place of her father. The learned Judge further noted that the minor expressed her reservation for staying with her father for fifteen days at a stretch and she wants her mother to be with her.

12. Taking note of the reservation expressed by the minor, the learned Judge thought fit not to expose the minor to spend a period of fifteen days with the father and away from her mother.
13. To the mind of this Court, the learned Trial Judge was right in observing that spending more time with the father is necessary for the overall development of her child and it will be for her own benefit and welfare. The learned Judge after interacting with the child felt that the duration of the temporary custody should be for a period of seven days to start with.
14. While granting temporary custody of the minor daughter to the father for a period of seven days, the learned Judge also directed the father to make arrangement for video conferencing with the minor and her mother everyday between 8 PM to 9 PM and also directed arrangements to be made by the father for telephonic conversation between the minor and her mother as and when the minor so desires. The father has also been restrained from moving the minor out of Kolkata during the aforesaid period.
15. Mr. Ray would contend that the education of the child would get affected if the father is given temporary custody during the period as indicated in the impugned order as the two private tutors come to the residence of the mother everyday except Sundays from 12 PM to 2 PM and from 4 PM to 6 PM to teach the minor.
16. On a query of the Court, Mr. Bose learned advocate appearing for the father-opposite party, upon taking necessary instruction from his client who is present in Court, submits that the father has no objection if the private

tutors come to the residence of the father during the period of temporary custody for teaching the minor daughter.

17. The learned Additional District Judge after interacting with the minor thought fit to grant temporary custody of the minor daughter to the father for a period of seven days. This Court finds that the interest of the minor and the apprehension of the mother also has been sufficiently safeguarded in the order impugned.
18. From the aforesaid discussion, it is crystal clear that the child loves her parents and wants to stay with them. It is not in dispute that the child is staying with her father overnight since 2022. The Learned Additional District Judge, after interacting with the child, passed certain directions while giving temporary custody of the minor daughter to the father for a brief period. This Court does not find any reason to interfere with the exercise of discretion by the Learned Additional District Judge as the same is supported with reasons. This Court further finds that the learned Judge has posted the matter on 04.06.2025 for further hearing and also directed that the minor be brought on that day in Court for interaction.
19. Grandparents often share their life experiences with the grandchildren. Their stories, anecdotes and advice often serve as valuable lessons for the grandchildren. They offer valuable guidance and wisdom to the grandchildren. Frequent meeting between the grandparents and grandchildren will help in maintaining and strengthening the bond between both of them. Such relationship is not one sided and is build on mutual affection. Grandparents find joy in the achievements of the grandchildren and the grandchildren also cherish the company and guidance of their grandparents. There is also a saying that the grandparents love the interest more than the principal.
20. The presence of the grandparents at the time of temporary custody will have a positive impact in the mind of the minor. The love and affection of the grandparents would be in the best interest and welfare of the child and this

Court feels that for such reason, the father should make honest endeavour to arrange frequent meeting between the grandparent and the child. The father shall also ensure that the grandparents also stay with the minor during the period of temporary custody for the present for building up the mutual love and affection between the grandparent and the minor.

21. For all the reasons as aforesaid this Court is not inclined to set aside the order impugned but feels that the same should be modified to some extent in the interest of the child.
22. In view of the submission made by Mr. Bose that the grand-parents of the minor shall spend time with the grand-daughter during the period of temporary custody, this Court directs the father-opposite parties to file an affidavit before this Court in course of this day stating that the grand-parents shall stay with the opposite party herein and the minor Arya during the period of temporary custody. The father/opposite party herein shall take Arya from the residence of the mother by 5 PM today, i.e., on 23.05.2025 and shall return Arya to the mother by 5 PM on 29.05.2025. The father shall allow the private tutors to come to his residence to teach the minor. During the aforesaid period the mother will be at liberty to pick up the minor Arya from the residence of the father in the evening at about 6:30 PM on every alternate day and take her to City Centre 1, Saltlake, Kolkata for spending time with the daughter as suggested by the mother and drop her at the father's residence within one hour. The order impugned stands modified only to the extent as indicated hereinbefore. Other directions passed in the impugned order are not interfered with by this Court.
23. The Civil Revision Application stands disposed of with the hope and belief that the parents shall take each step keeping in mind the welfare of their minor daughter and shall not allow their personal interest to take the front seat.
24. There shall be, however, no order as to costs.

25. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)

Later:

Date: 23.05.2025

After this order is dictated, Mr. Basu, learned advocate for the opposite party files an undertaking in the form of an affidavit affirmed by the opposite party/father which is taken on record. A copy of such affidavit has been served upon the learned advocate appearing for the petitioner in court today.

After going through the said affidavit, this court finds that the same is in tune with the observations made by this Court in this order.

(HIRANMAY BHATTACHARYYA, J.)