

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

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

C.O. 1988 of 2025

Agnidipa Das

Vs.

Rajanoy Dutt

WITH

CO 1994 of 2025

Rajanoy Dutt

Vs.

Agnidipa Das

For the Petitioner in CO 1988 of 2025 and Opposite Party in CO 1994 of 2025	: Mr. Partha Pratim Roy, Mr. Srijib Chakraborty, Mr. Abirlal Chakraborty, Mr. Aditya Mondal	 Advocates
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For the Petitioner in CO 1994 of 2025 and Opposite Party in CO 1988 of 2025	: Mr. Kallol Bose, Ms. Sohini Chakraborty, Mr. Bratin Kumar Dey, Mr. Samik Sarkar	 Advocates
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Reserved On : 10.06.2025

Judgment on : 13.06.2025

Hiranmay Bhattacharyya, J.:-

1. The mother and father of the minor have filed these Civil Revision Applications challenging the Order being no. 64 dated June 6, 2025 passed by the learned Additional District Judge, 14th Court Alipore, Dist 24 Pgs (S) in Act VIII Case no. 176 of 2022. CO no. 1988 of 2025 is at the instance of the mother and CO 1994 of 2025 is filed by the father.

2. 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 before the learned District Judge, Alipore , 24 Pgs (S) being Act VIII case no. 176 of 2022. The mother 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.
3. In the Act VIII Case, the father 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., from 15.05.2025 to 30.05.2025. The mother 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 by order being No. 60 dated May 17, 2025.
4. Being aggrieved by the Order being no. 60 dated May 17, 2025 thereby granting temporary custody of the minor daughter Arya from 22.05.2025 till 28.05.2025 to the father, the mother filed a Civil Revision Application being CO 1978 of 2025. The said Civil Revision Application was disposed of by an Order dated May 23, 2025 by passing certain directions. The father was directed to take the minor Arya from the residence of the mother by 5 PM on 23.05.2025 and return her to the mother by 5 PM on 29.05.2025.
5. Pursuant to the direction passed by this Court, the minor Arya remained in the temporary custody of the father during the period fixed by this Court.
6. The petition dated 06.05.2025 filed the father praying for custody of the minor Arya for the remaining period of the summer vacation came up for hearing before the learned Additional District Judge on 06.06.2025 and the learned Additional District Judge passed certain directions.
7. The father and the mother are aggrieved by separate portions of the said order and have approached this Court by filing separate Civil Revision Applications.
8. Mr. Partha Pratim Roy learned advocate appearing for the mother submits that the minor was very much distressed during the period when she was with the father and the minor expressed such feelings to her mother. He further submits that in spite of the fact that the father filed an undertaking before this Hon'ble Court stating that the grand-mother of the minor Arya shall stay at the residence of the father during the period of temporary

custody but the grand-mother did not stay in the residence of the father overnight. He submitted that no adult female was present in the house during the night. Mr. Roy further contended that since the minor stayed with the father for a considerable period of time, the portion of the impugned order giving further temporary custody of the minor daughter Arya from 07.06.2025 to 09.06.2025 should be set aside.

9. Mr. Bose learned advocate appearing for the father seriously disputed the contentions of Mr. Roy. He contended that the learned Additional District Judge suspended the temporary custody of minor Arya on Sunday i.e., 15.06.2025 without appreciating that the Hon'ble Division Bench, in a habeas corpus writ petition permitted the father to take the child on every Sunday from the residence of the mother at about 11 AM and drop her at school next Monday. He further contended that the mother did not allow the father to have access of the minor daughter for the period from 07.06.2025 till 09.06.2025. He contended that the father should be allowed to get temporary custody of the minor daughter for the balance period of the vacation.
10. Mr. Bose further contended that the mother booked air tickets for travel to Indore without obtaining leave from the Court. He further contended that the grand-mother of the minor could not stay in the property of the father overnight due to paucity of accommodation but the cousins of the minor stayed with the minor during the night time. He also contended that the grand-father stayed at the residence of the father during the period of temporary custody.
11. Heard the learned advocates for the parties and perused the materials placed.
12. It is not in dispute that the minor stayed with the father from 23.05.2025 till 29.05.2025 pursuant to the order passed by this Court. The minor Arya was produced before the Additional District Judge on 06.06.2025. The learned Additional District Judge interacted with the minor inside his chamber. It has been recorded in the impugned order that the minor told the learned Judge that during her stay with her father she had missed her mother too much.
13. The learned Additional District Judge after interacting with the minor and considering the fact that the minor stayed with her father and her grand-parents for the six days at a stretch was not inclined to pass any order for further temporary custody of minor Arya for a longer period. The learned Additional District Judge after keeping in mind the experience of the minor during her stay with her father and her grand-parents allowed the father a

further temporary custody of the minor Arya from 07.06.2025 till 09.06.2025.

14. The mother has approached this Court praying for setting aside that portion of the order.
15. However, it would be relevant to point out that the C.O. no. 1988 of 2025 was filed by the mother on 09.06.2025 and the same was taken up for hearing on 10.06.2025.
16. The learned Additional District Judge after considering the feelings of the minor daughter and the welfare of the minor thought fit to grant temporary custody of the minor daughter to the petitioner from 07.06.2025 till 09.06.2025.
17. Mr. Roy laid much emphasis on the fact that the father has violated the undertaking submitted before this Court. This Court, however, refrains from dealing with such allegations in these civil revision applications as the scope of these applications is restricted to the directions contained in the impugned order.
18. The father and mother are fighting against each other tooth and nail. In a litigation concerning the custody of the minor, the Court has a duty to see that the child is not treated as a chattel in which the parents have a proprietary interest. The Court has to keep in mind the paramount welfare of the child while fixing the period for temporary custody. From the statements made by the minor during the interaction with the Additional District Judge nothing adverse against the father has transpired in order to hold the father to be an unfit person for having temporary custody of the minor. The findings arrived at by the learned Judge after interaction with the minor also have to be given due weightage in a litigation of this nature.
19. The learned Additional District Judge has recorded the experience shared by the minor during the interaction in the impugned order. It is not in dispute that the grand-father resided in the flat of the father during the period of temporary custody. Though the grand-mother did not stay in the flat during night but she used to stay at the residence of the father from 11 AM to 6 PM during the entire period. It does not appear from the recording of the experience of the minor during her stay with the father that she faced inconvenience due to the absence of the grand-mother during the night. Therefore, this Court is not inclined to interfere with the portion of the order giving temporary custody of the minor daughter from 07.06.2025 to 09.06.2025.

20. This Court is also not inclined to further extend the period of temporary custody of the minor daughter Arya during the summer vacation at this stage as the minor spent time with the father during the vacation.
21. Since it has been alleged by Mr. Bose learned advocate for the father that the father was deprived of the temporary custody of the minor daughter from 07.06.2025 till 09.06.2025 as directed by the impugned order, it will be open to the petitioner to work out his remedies in accordance with law. This Court, however, finds that the learned Additional District Judge directed that the usual temporary custody of minor Arya on the Sunday (15.06.2025) will remain suspended for that day only as the new academic session of Arya will start on 16.06.2025.
22. Mr. Roy, learned advocate appearing for the mother, in course of his argument, on instructions, submitted that the mother shall allow the father to have usual temporary custody of minor Arya on the Sunday (15.06.2025). Such submission of Mr. Roy is placed on record.
23. In view thereof, the father shall be at liberty to take the child on the Sunday (15.06.2025) in terms of the directions passed in WPA (H) 55 of 2022 on 13.09.2022. The impugned order stands modified only to the extent as indicated hereinbefore.
24. The Civil Revision Applications stand disposed of with the above observations and directions. 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.)