

Sl.21
18.07.2025
Court No.6
BP

C.O. 2341 of 2025

Shantilal Sharma & Ors.

-versus-

Susant Vyas @ Sushanta Vyas

Mr. Sudhasatva Banerjee

Ms. Aafreen Perveen

Mr. Shashwat Nayak

Mr. Aurin Chakraborty

Mr. Gholam Shahbaz

Ms. Aafreen Begam

..for the petitioners

Mr. Pratip Mukherjee

Mr. Arpit Agarwal

Mr. P. Biswas

..for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the opposite party in Misc. Case No. 141 of 2023 and is directed against an order being no. 17 dated June, 4, 2025 passed by the learned Additional District Judge, 5th Court at Howrah.

By the order impugned, the learned judge directed the petitioner herein to attend at any third place in the city of Mumbai nearest to the city of Pune for visitation of the father with the minor child Hriday Vyas and that visitation will be for the period of 48 hours in every month possibly on 2nd Saturday and 2nd Sunday of each month and the child is to accompany to Mumbai with only one male member of the family of

the petitioners herein and any violation of the same will be disobedience to the order passed by the court.

Mr. Banerjee, learned advocate appearing for the petitioner submits that the learned judge by an order dated 1st March, 2025 after interacting with the child expressed an opinion that it will not be proper to allow any visitation right to the opposite party herein as it will have a negative impact in his mind and psychology as the children are adamant. He further submits that the learned judge directed the petitioners herein to place the child before the clinical child psychologist along with the copy of the order. He submits that pursuant to the said order the child was taken to the clinical child psychologist who after examining the child gave a report to the petitioners herein in a sealed cover to be placed before the learned trial judge. He submits that on the day when the impugned order was passed due to some communication gap between the arguing counsel and the learned advocate on record, the report in the sealed cover could not be filed and a prayer for adjournment was made. He submits that when the learned judge was of the view that the opinion of the child psychologist is necessary before passing any order for visitation, the order impugned order ought not to have been passed.

The learned advocate for the opposite party seriously disputes the submission made by Mr.

Banerjee. He submits that the opposite party has serious doubts as to whether the child was at all taken to the child psychologist. He submits that instead of filing the report the petitioners herein filed an adjournment petition annexing a medical document. He submits that such document bears a date prior to the passing of the order dated 1st March, 2025 and thus it is apparent that the petitioner herein did not take any steps in compliance of the order dated 1st March, 2025. He further submits that the petitioner herein is only trying to delay the visitation of the father with the minor child on frivolous grounds. He further submits that 6th August, 2025 has been fixed for hearing of an application filed by the opposite party alleging willful and deliberate violation of the order dated 4th June, 2025.

After some argument Mr. Banerjee, learned advocate appearing for the petitioner submits that the report in the sealed cover given by the child psychologist is with him and he can produce the same before the learned trial judge if an opportunity is given to the petitioners herein.

Mr. Banerjee prays for leave to withdraw this civil revisional application with liberty to approach the learned trial judge by filing an appropriate application before the learned trial judge to enable him to produce the relevant materials before the learned trial judge.

Mr. Banerjee however submits that since the petitioner preferred the civil revisional application, and in the meantime the period of limitation for filing an application for recalling has expired, a direction be given to the learned trial judge to consider the application on merits without dismissing the same on the issue of limitation.

Such submission is, however, not opposed by the learned advocate for the opposite party herein.

This Court feels that since the petitioners are claiming that the report of the child psychologist in sealed cover is lying with them, an opportunity should be given to the petitioners to place the same before the learned trial judge. For such reason, this Court is inclined to allow the prayer of the petitioners to withdraw this civil revisional application with liberty as sought for by the petitioners.

In the light of the submission made by the learned advocate for the petitioner, C.O. 2341 of 2025 stands dismissed as withdrawn with liberty to the petitioners to file an appropriate application before the learned trial judge. If such an application is filed on or before 23rd July, 2025 along with a put up petition after serving a copy of the same to the learned advocate on record of the opposite party herein representing them before the learned trial judge, the opposite party herein would be at liberty to file a written objection on or

before 4th August, 2025 after serving a copy of the same to the learned advocate for the petitioners before the learned trial judge. If such application is filed by the petitioners within the time limit indicated hereinbefore, the learned Additional District Judge, 5th Court at Howrah is requested to take up the hearing of such application on 6th August, 2025 and dispose of the same prior to taking up the application filed by the opposite party herein alleging violation of the order dated 4th June, 2025.

The learned advocate for the opposite party further submits that in the meantime the opposite party shall not press his prayer alleging disobedience of the order dated 4th June, 2025.

Such submission of the learned advocate for the opposite party is placed on record.

(Hiranmay Bhattacharyya, J.)