

D/L- 40
17/02/2025
Ct. No.-6
Aritra

C.O. 2480 of 2024

**Paramita Dhole
Versus
Mriganka Majumder**

Mr. Dyutiman Banerjee
Ms. Swagata Das
...for the petitioner

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. K.R. Ahmed
Mr. Rudranil Das
...for the opposite party

The order dated February 5, 2024 passed by the learned Additional District Judge, 8th Court at Alipore, Act-VIII Case No.116 of 2019 is under challenge in this application at the instance of the mother of a minor son of the parties.

In course of hearing of this application Mr. Mukherjee, learned advocate appearing for the opposite party submits that the petitioner herein filed an application under Section 151 of the Code of Civil Procedure on February 26, 2024 praying for appointment of a neutral and impartial person who is a child welfare expert to assess the mental health of the child as well as the parents. The prayer made in the application is extracted hereinafter:-

“In the circumstances it is therefore prayed that your Honour would be graciously

be pleased to condone the unintentional delay if any in filing this modification petition by your petitioner i.e. the Opposite Party/Respondent herein before your Honours Court and modify the order dated 05/02/2024 passed by the Ld Court by recalling the authority given by the Ld Court to the petitioner to arrange the Child welfare Expert and the Ld court may appoint one neutral and impartial person who is an Child welfare Expert as Child welfare Expert to assess the mental health of the child as well as both parents at the convenient and favourable time for the child i.e. Sunday evening and to give direction to videograph the whole session and also give direction to handover all the test reports and reports of assessment alongwith videography to the Ld Court by the said Child welfare Expert and also give direction to the petitioner Father to pay all the expenses for the same and to stay the execution of the current order until this modification petition is duly considered and adjudicated upon by the Court and to fix a date for the hearing of the instant petition for the ends of justice and pass such other order/orders as your Honour may deem fit and proper.”

It appears that in the application under Section 151 of the Code the petitioner herein has prayed for modification of the order dated February 5, 2024 and the said application was filed on February 26, 2024. Five months thereafter the petitioner has

challenged the order dated February 5, 2024 by filing this civil revision application.

It is not in dispute that the application under Section 151 of the Code filed on February 26, 2024 is still pending before the learned Additional District Judge, 8th Court at Alipore.

In view thereof CO 2480 of 2024 is disposed of by giving liberty to the petitioner herein to proceed with the application under Section 151 of the Code of Civil Procedure pending before the learned Trial Judge and raise all points at the time of hearing of such application.

Since an application for modification of the order dated 05/02/2024 has been filed before the learned Trial Judge and the same is still pending, this Court is not inclined to entertain this application.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)