

19.05.2026
Item No.16 (DL)
Court No.06
AJ.

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

C.O. 1520 of 2026

**Suvajit Roy
-Vs-
Moumita Roy**

Mr. Probal Kumar Mukherjee, Sr. Adv.,
Mr. Suhrid Sur.

.....for the petitioner.

Mr. Ujjal Ray,
Mr. Abdur Rahim.

.....for the opposite party.

1. This revisional application assails an order dated April 20, 2026 passed passed by the learned Additional District Judge, 1st Court Hooghly, Chinsurah (hereafter "Trial Court") at in Act VIII Case No. 44 of 2025 filed by the opposite party under Section 7 of the Guardians and Wards Act, 1890.

2. The opposite party has also filed a matrimonial suit being MAT Suit No. 674 of 2024 which is pending before the learned Additional District Judge, 1st Court at Srirampore, Hooghly.

3. In the said matrimonial suit, the petitioner took out an application for interrogatories under Order XI Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 seeking direction upon the opposite party to answer two interrogatories as to whether the opposite party had any objection to the minor child being admitted to the school selected by the petitioner and as to whether the opposite party had any better

alternative school in case the opposite party had any objection to the school chosen by the petitioner. On such application, an order was passed by the learned Additional District Judge, 1st Court, Srirampore whereby the learned Court opined that both the parties should sit together and decide as to which school in the locality where the parties were residing, would be better for the education of the child.

4. Subsequently, the aforesaid Act VIII Case No. 44 of 2025 was instituted by the opposite party in the Court of the learned Additional District Judge, 1st Court at Hooghly. In the said case, the petitioner filed an application seeking a direction to assign the responsibility of the educational welfare of the minor child to the petitioner so that the minor child could get the best possible education. On such application, an interim order was passed on April 01, 2026 by the learned Additional District Judge, 1st Court at Hooghly thereby staying the contemplated admission of the minor girl child to Aditya Academy, Dumdum, Kolkata at the instance of the opposite party.

5. The said application was taken up for hearing finally on April 20, 2026. However, the learned Trial Court has disposed of the same by passing the order impugned directing both the parties to submit their requests as regards the

child's schooling and education before the learned Additional District Judge, 1st Court at Srirampore.

6. Feeling aggrieved, the petitioner has approached this court by way of the present revisional application.

7. Mr. Mukherjee, learned senior Advocate appearing for the petitioner submits that the order impugned could not have been passed by the learned Trial Court by directing the petitioner to approach the Court where the matrimonial lis between the parties is pending, since no substantive application has been filed by any of the parties before the said Court where in the issue that had been raised before the learned Trial Court would be decided.

8. It is further submitted that in any case and at any rate, the order on the basis of which the learned Trial Court has directed the parties to approach the Court where the matrimonial suit is pending consideration was also there on the date when the learned Trial Court had passed the interim order dated April 01, 2026. He further submits that merely because an advisory opinion has been rendered by the learned Court where the matrimonial suit is pending consideration, the substantive application seeking specific directions by the Court which has jurisdiction to decide issues pertaining to guardianship of minor children, could not have been disposed of by the

learned Trial Court without taking appropriate decision on it.

9. Mr. Ray, learned Advocate appearing for the opposite party submits that the application that had been filed by the petitioner before the learned Trial Court where the matrimonial suit is pending, notwithstanding the same being captioned under Order XI Rules 1 and 2 of the Code, was in effect an application seeking similar directions as the one made before the learned Trial Court, wherein the order impugned has been passed.

10. He further submits that in any case, since the opposite party has filed the Act VIII case before the learned Trial Court at Chinsurah, therefore the opposite party would also wish the issue to be decided by the said learned Court itself.

11. Mr. Ray further submits that the observations made by the learned Trial Court while passing the interim order dated April 01, 2026 are however, not correct inasmuch the petitioner who is a patient suffering from several ailments, would be able to take better care of the child only if the child is admitted to a school which is near her residence as well as her place of work. It is submitted that presently the residence of the opposite party is in Dumdum and she is employed as an Assistant Professor in an educational institute at Salt Lake.

12. Having heard the learned Advocates appearing for the respective parties and having considered the material-on-record, this Court is of the view that the learned Trial Court was not justified in disposing of the petitioner's application by directing the parties before it to approach the learned Additional District Judge, Srirampore where the matrimonial suit is pending for getting a decision on the issue raised before the learned Trial Court itself. It could have been a completely different matter if a similar application filed earlier had been pending before the learned Court at Srirampore. In such situation, a similar order might have been justified but it is certainly not so in a situation where the application that was being considered by the learned Trial Court was the first in time and the same had been filed before the learned Trial Court itself.

13. The learned Trial Court was therefore legally obliged to decide the application on merits. Having not done so, the learned Trial Court has committed a jurisdictional error. In such view of the matter, the order dated April 20, 2026 stands set aside.

14. Since the matter pertains to the admission of a child to a school and has therefore assumed immediacy, the learned Trial Court is requested to reconsider the said application and decide the same afresh on its own merits as expeditiously as

possible and preferably within a period of one month from date.

15. It is needless to mention that the learned Trial Court, while deciding the aforesaid application shall remain uninfluenced by the observations made by it at the interim stage when the order dated April 01, 2026 was passed. The learned Trial Court shall also remain uninhibited by the order dated April 09, 2025 passed by the learned Additional District Judge at Chinsurah while hearing the matrimonial suit.

16. C.O. 1520 of 2026 stands disposed with the above observations. No costs.

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

(Om Narayan Rai, J.)